

MONTANA LEGISLATIVE HISTORY

Chapter 465 19 97

Bill H _____ S 354 Original bill & history ☒ C

H. Committee on Taxation

Hearing Date(s) Apr 09 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out _____ ☐ C

S. Committee on Taxation

Hearing Date(s) Mar 14 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

No Senate minutes were found regarding
action taken.

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

2/20 FISCAL NOTE RECEIVED
 2/20 FISCAL NOTE PRINTED
 2/20 TABLED IN COMMITTEE
 3/03 MISSED DEADLINE FOR 45TH DAY TRANSMITTAL
 DIED IN COMMITTEE

SB 354 INTRODUCED BY WATERMAN, ET AL. LC0777 DRAFTER: HEIMAN

ESTABLISH A RESTAURANT BEER AND WINE LICENSE TO ALLOW
 RESTAURANTS TO SERVE BEER AND WINE TO PATRONS WHO
 PURCHASE FOOD

2/14	INTRODUCED		
2/14	FIRST READING		
2/14	REFERRED TO TAXATION		
2/14	FISCAL NOTE REQUESTED		
2/20	FISCAL NOTE RECEIVED		
2/21	FISCAL NOTE PRINTED		
3/11	HEARING		
3/27	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/28	REVISED FISCAL NOTE REQUESTED		
4/02	REVISED FISCAL NOTE RECEIVED		
4/02	2ND READING PASSED AS AMENDED	40	9
4/02	REVISED FISCAL NOTE PRINTED		
4/03	3RD READING PASSED	44	5
	TRANSMITTED TO HOUSE		
4/03	FIRST READING		
4/03	REFERRED TO BUSINESS & LABOR		
4/07	HEARING		
4/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/15	2ND READING CONCURRED AS AMENDED	70	28
4/16	3RD READING CONCURRED	72	28
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	49	0
4/18	3RD READING CONCURRED AS AMENDED	43	6
4/23	SIGNED BY PRESIDENT		
4/24	SIGNED BY SPEAKER		
4/24	TRANSMITTED TO GOVERNOR		
4/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 465		
	EFFECTIVE DATE: 10/01/97		

SB 355 INTRODUCED BY JERGESON, ET AL. LC1353 DRAFTER: ERICKSON

ELIMINATE THE 1 PERCENT ALLOWANCE RETAINED BY DISTRIBUTORS
 FOR COLLECTING THE GASOLINE AND SPECIAL FUEL TAXES

2/14 INTRODUCED
 2/14 FIRST READING
 2/14 REFERRED TO TAXATION
 2/14 FISCAL NOTE REQUESTED
 2/19 FISCAL NOTE RECEIVED
 2/19 FISCAL NOTE PRINTED
 2/21 HEARING
 3/05 TABLED IN COMMITTEE
 4/05 MISSED DEADLINE FOR 71ST DAY TRANSMITTAL
 DIED IN COMMITTEE

Senate BILL NO. 354

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A RESTAURANT BEER AND WINE LICENSE TO ALLOW RESTAURANTS TO SERVE BEER AND WINE; PROHIBITING A RESTAURANT BEER AND WINE LICENSEE FROM HOLDING ANY OTHER TYPE OF BEER, WINE, OR LIQUOR LICENSE; EXEMPTING RESTAURANT BEER AND WINE LICENSES FROM THE QUOTA SYSTEM; PROVIDING THAT RESTAURANT BEER AND WINE LICENSES ARE NONTRANSFERABLE; PROHIBITING GAMING AND GAMBLING IN CONJUNCTION WITH A LICENSE, OTHER THAN AN ALL-BEVERAGES LICENSE, TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON PREMISES NOT ORIGINALLY LICENSED PRIOR TO THE EFFECTIVE DATE OF THIS ACT; AND AMENDING SECTIONS 23-5-306, 23-5-502, 23-5-603, AND 23-5-611, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Restaurant beer and wine license. (1) The department shall issue a

restaurant beer and wine license whenever:

(a) the applicant is otherwise qualified to possess a beer and wine license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department:

(i) that the applicant intends to open a restaurant that will meet the requirements of subsection (2) and intends to operate the restaurant so that at least 75% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food; and

(ii) that the restaurant beer and wine license will be used in conjunction with that restaurant;

(c) the applicant understands that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect;

(d) the owner of an existing all-beverages, beer, wine, or beer and wine license agrees to sell any existing license before the restaurant beer and wine license takes effect; and

(e) the applicant does not hold any other retail license for the sale of beer, wine, or any other alcoholic beverages.

(2) For purposes of this section, "restaurant" means a public eating place where individually priced meals are prepared and served for on-premises consumption. At least 75% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. The restaurant must have a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant.

(3) A restaurant beer and wine license is not transferable and may not be sold by a licensee.

(4) The department shall issue a restaurant beer and wine license to a qualified applicant regardless of the number of beer and wine licenses already issued within a beer license quota area in which the restaurant is located.

(5) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(6) An application for a restaurant beer and wine license must be accompanied by a fee of \$1,000. The annual fee for a restaurant beer and wine license is \$300.

(7) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

NEW SECTION. Section 2. Appropriate alcoholic beverage license for gaming or gambling. (1)

Gaming or gambling may be conducted on premises with retail all-beverages licenses issued under 16-4-201 but may not be conducted on premises that are originally licensed after [the effective date of this act] under any other provision of law to sell alcoholic beverages for consumption on the premises. The transfer or renewal of a license in conformance with the provisions of this title does not constitute the new issuance of a license, and premises operating under a license originally issued prior to [the effective date of this act] may, subject to the provisions of Title 23, chapter 5, have gaming or gambling conducted on the premises.

(2) All licenses to sell alcoholic beverages for consumption on the premises, other than all-beverages licenses issued under 16-4-201, that are issued after [the effective date of this act] must have a conspicuous notice that the license may not be used for premises where gaming or gambling is

1 conducted.

2
3 **Section 3.** Section 23-5-306, MCA, is amended to read:

4 **"23-5-306. Live card game table -- permit -- fees -- disposition of fees.** (1) (a) A person who has
5 been granted an operator's license under 23-5-177 and a who holds an appropriate license to sell alcoholic
6 beverages for consumption on the premises as provided in [section 2] may be granted an annual permit for
7 the placement of live card game tables.

8 (b) The department may issue an annual permit for the placement of live card game tables to a
9 person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

10 (i) one or more live card game tables were legally operated on the premises on January 15, 1989;

11 (ii) the premises were licensed on January 15, 1989, to sell food, cigarettes, or any other
12 consumable product;

13 (iii) the person has been granted an operator's license under 23-5-177; and

14 (iv) at the time of application for the permit:

15 (A) the person has continuously operated a live card game table on the premises since January 15,
16 1989; and

17 (B) the natural person or persons who own the business operated on the premises are the same
18 as on January 15, 1989.

19 (2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed
20 operator's premises may not be prorated and must be:

21 (a) \$250 for the first table; and

22 (b) \$500 for each additional table.

23 (3) The department shall retain for administrative purposes \$100 of the fee collected under this
24 part for each live card game table.

25 (4) The department shall forward on a quarterly basis the remaining balance of the fee collected
26 under subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or
27 town in which the live card game table is located for deposit to the county or municipal treasury. A county
28 is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and
29 towns within the county. The local government portion of this fee is statutorily appropriated to the
30 department, as provided in 17-7-502, for deposit to the county or municipal treasury."

1 **Section 4.** Section 23-5-502, MCA, is amended to read:

2 **"23-5-502. Sports pools and sports tab games authorized -- tax.** (1) Conducting or participating
3 in sports pools and sports tab games as defined and governed in this part is lawful, except that:

4 (a) sports tab games may ~~only~~ be conducted only on premises appropriately licensed to sell
5 alcoholic beverages for consumption on the premises as provided in [section 2]; and

6 (b) only a licensee of premises that are located in an incorporated city or town with a population
7 of less than 100 or located outside the boundaries of an incorporated city or town and that are
8 appropriately licensed to sell alcoholic beverages for consumption on the premises under [section 2] may
9 conduct a race between animals and conduct one or more sports pools on the race. The race may be
10 conducted only if it is between pigs, gerbils, or hamsters and is conducted on the premises but outside of
11 interior areas of the establishment where food and beverages are usually stored, prepared, or served.

12 (2) A manufacturer licensed under 23-5-115 who sells sports tabs to a licensed operator for use
13 in a sports tab game shall collect from the operator, at the time of sale, a tax of \$1 for each 100 sports
14 tabs sold and, within 15 days after the end of each calendar quarter, submit to the department any forms
15 required by the department and the proceeds of the collected tax. The manufacturer shall keep a record of
16 taxes collected as required by department rule. The records must be made available for inspection by the
17 department upon request of the department. The department shall retain the proceeds of the tax to
18 administer this part."

19
20 **Section 5.** Section 23-5-603, MCA, is amended to read:

21 **"23-5-603. Video gambling machines -- possession -- play -- restriction.** (1) A licensed operator
22 may make available for public play only the number of approved video gambling machines specifically
23 authorized by this part.

24 (2) The video gambling machines specifically authorized by this part are bingo, keno, and draw
25 poker machines. Only the number of approved machines for which permits have been granted under
26 23-5-612 may be made available for play by the public on the premises of a licensed operator. The
27 department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced
28 while it is being repaired with a video gambling machine that is approved under the permit provisions of
29 this part. A fee may not be charged for the replacement machine.

30 (3) Machines on premises appropriately licensed to sell alcoholic beverages for on-premises

consumption as provided in [section 2] must be placed:

(a) in a room, area, or other part of the premises in which alcoholic beverages are sold or consumed; and

(b) within control of the operator for the purpose of preventing access to the machines by persons under 18 years of age."

Section 6. Section 23-5-611, MCA, is amended to read:

"23-5-611. Machine permit qualifications -- limitations. (1) (a) A person who has been granted an operator's license under 23-5-177 and ~~a~~ who holds an appropriate license to sell alcoholic beverages for consumption on the premises as provided in [section 2] may be granted a permit for the placement of video gambling machines ~~in his~~ on the person's premises.

(b) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date.

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 23-5-177 may be granted a permit for the placement of bingo and keno machines ~~in his~~ on the person's premises.

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of 23-5-176.

(3) A licensee may not have on the premises or make available for play on the premises more than 20 machines of any combination."

NEW SECTION. Section 7. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 16, and the provisions of Title 16 apply to [sections 1 and 2].

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0354, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

act establishing a restaurant beer and wine license to allow restaurants to serve beer and wine; prohibiting a restaurant beer and wine licensee from holding any other type of beer, wine, or liquor license; exempting restaurant beer and wine licenses from the quota system; providing that restaurant beer and wine licenses are nontransferable; prohibiting gaming and gambling in conjunction with a license, other than an all-beverages license, to sell alcoholic beverages for consumption on premises not originally licensed prior to the effective date of this act.

ASSUMPTIONS:

Department of Revenue:

The revenue impact of this bill stems from the fees that will be paid under the issuance of new restaurant beer and wine licenses. There are two components to the estimate of new restaurant beer and wine licenses. The first component consists of those establishments that own an existing beer license in an area where the quota for these licenses is currently met. Some of these licenses will be sold with the seller subsequently purchasing a new restaurant beer and wine license. The second component consists of those restaurants that currently have no liquor license of any kind that will acquire a new restaurant beer and wine license.

This act is effective October 1, 1997.

Currently, there are 200 existing beer licenses subject to quota at locations that do not offer gambling; of these, 190 can be sold as private property. Of these 190, only 126 are in areas where the beer and wine license quota has been met, making them marketable licenses.

In 1991, the Supreme Court ruled that 52 fraternal and veteran all-beverages licenses (all located in areas where the all-beverages license quota had been met) could be sold as quota licenses, and replaced with special fraternal licenses. In the ensuing time period, 16 (31%) of these licenses have been sold.

Based on historical experience with respect to the selling of fraternal and veteran all-beverage licenses, it is assumed that 31% of the existing available beer licenses will be sold over a 5-year period. This results in 39 licenses being sold over a five-year period, or 8 licenses per year, beginning in FY98.

Based on a study of restaurants currently having no liquor license of any kind that are located in areas where the current law beer license quota has been met, it is assumed that 209 restaurants will purchase a new restaurant beer and wine license over the next three fiscal years, for an average of 70 new licenses per year, beginning with FY98.

The initial application fee is \$1,000 for each new restaurant beer and wine license, with subsequent year licensing fees of \$300 per year.

The additional licenses issued under this bill will require additional licensing activity in the Liquor Division of the DOR. This additional activity will be absorbed by current funding and FTE. However, this additional activity also will result in a delaying of current licensing and other activity. This delay in performing current services is equivalent to the work that could be carried out by 0.50 licensing specialist FTE.

Department of Justice:

Eight current quota licenses would be sold in each year of the biennium. The average cost of each investigation will be \$400. The costs include staff time, travel and access to multi-jurisdictional criminal history data bases.

Seventy (70) new restaurant licenses will be purchased in each year of the biennium. The average cost of each investigation will be \$100. These investigations are not as in-depth as the quota license investigations.

Continued - page 2)

Dave Lewis 2-20-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Mignon Waterman 2-21-97
MIGNON WATERMAN, PRIMARY SPONSOR DATE

SB
Fiscal Note for SB0354, as introduced

SB 354

(continued)

ASSUMPTIONS:Department of Justice: (Continued)

3. The cost of such investigations will be borne by the applicant. However, the Division's spending authority must be authorized by the legislature.
4. The Division has determined that the additional workload resulting from the additional license applications will create approximately a 25% increase in license investigation activity, which is not quite sufficient to require a full-time position in addition to current staff. The actual number of licenses will be monitored during the biennium.
5. Expenditures will rise by the cost of investigating 78 new license applications in each year of the biennium (8*400 + 70*100).
6. Revenue will increase by the investigation fees paid by the license applicants. The net impact will be zero.

FISCAL IMPACT:Department of Revenue:Expenditures:

See assumption #7, above.

Revenues:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
Licensing Fees (01)	\$78,000	\$101,400

Department of Justice:Expenditures:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
Operating Expenditures (02)	\$10,200	\$10,200

Revenues:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
State Special Revenue (02)	\$10,200	\$10,200

Net Impact:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
State Special - Gambling (02)	\$0	\$0

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Licensing fee revenue (01) is projected to increase by \$124,800 in FY2000; by \$78,200 in FY2001; and by \$80,600 in FY2002.

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 11, 1997, at 8:00 a.m., in Room 325 of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Services Division
Jody Bird, Judiciary Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 354, SB 372, March 3, 1997
Executive Action: None

HEARING ON SB 354

Sponsor: SENATOR MIGNON WATERMAN, SD 26, Helena

Proponents: Lowell L. Bartels, McDonald's, Helena and Butte
Betsy Barnhart, Bozeman, self
Paul Cartwright, self
B. A. Brockmeyer, self
Leonard Eckel, Helena small business owner and citizen
Bob Stevens, Bozeman, self
John Toenyes, owner, Elmer's Pancakes and Steaks, Great Falls
Carol Cassie, Mama Cassie's, Great Falls
Fred Weiner, Fred's Mesquite Grill, Bozeman
Jim Crand, small business owner, Bozeman

Patrick and Missy Orliss, Whitefish restaurant owners
 John Shontz, Montana Association of Realtors
 Robert Leach, Billings Association of Realtors
 John Precciello, Costine's, Black Eagle
 Bruce Evanson, self
 Dave (unable to discern surname), Great Falls
 restaurant owner
 June James, Centennial Inn, Dillon
 Steve Randolph, Emilinos, Helena
 Mike Casey, Helena Economic Development Commission, and
 Helena Prudence Society
 Cathy and John Ramirez, Mountain Meadow Inn, Helena
 Tim Ryan, Executive Director, High Plains Development,
 Great Falls
 Alec Hansen, Montana League of Cities and Towns
 Stephen Tang, Jade Garden, Helena
 Denny and Christine Staggs, Red Bird, Missoula
 Ellen Engstedt, Don't Gamble with the Future
 Keith Clevenger, Staggering Ox, Helena
 Alan Ruby, Kalispell contractor
 Jim Crestmeier, Missoula
 Bruce Warner, Bozeman
 J.M. Bender and B. Cullinan

Opponents: REPRESENTATIVE BOB KEENAN, Bigfork
 Mark Staples, Montana Tavern Association
 Allen Bock, self and The Brewhouse, Helena
 Robin Hampton, Sec-Treas, The Brewhouse, Helena
 Laurie Shadoan, Bozeman
 Darrell Keck, Shelby tavern owner and President, Gaming
 Association
 Bill Hands, Darby, small business owner
 Marilyn and Kevin Conner, co-owners, Woodpecker's,
 Helena
 Gene Burgett, owner, The Rex, Billings
 Bob Fletcher, The Cannery Lounge, Bozeman
 Mike Muncie, The Depot Restaurant, Missoula
 Bill Hannaker, Walker's Grill, Billings
 Bob Zimmorino, Red Pies over Montana, Missoula
 Sarah Herold, Capitol City Bowl
 Harold Fraser, First Security Bank, Missoula
 Reeder Seshy, Black Eagle
 Jim Grubbs, casino-restaurant operator, Billings
 Ramani Mohan, high school student/restaurant worker
 Patti Warburton, Pizza Depot, Shelby
 Rose and Chester Bullock, Basin, and Tri-County Tavern
 Association.
 Burr Lively, Southwest Montana Tavern Association,
 Dillon, and owner, Melrose Bar
 Bill MacIntyre, Pug Mahon's, Billings
 Jim Johnson, self and Montana Fraternal Order of
 Eagles, Red Lodge
 Barry Smith, Somers
 Carl Solvie, Gran Tree Inn, Bozeman

Diane Guy, El Commodore, Great Falls
Clare O'Malley Gould, O'Malley's, Canyon Ferry
Fred Keller, family restaurant manager, Missoula
Tami Kinoker, Iron Horse, Missoula, and Missoula County
Tavern Owners
Brian Cote, Coyote's Sports Grill
Blu Funk, Showthyme Restaurant, Bigfork
Loren Bateen, JD's, Billings
Cal McOmber, Corvallis Tavern
Bruce Fowler, Missoula
John Greenwood, Frenchtown Club, and President,
Missoula County Tavern Association
Dean Clinkenbeard, Deano's, Missoula
Laura Fix, River Grill, Helena
Barb Morris, Jorgenson's Helena
John Tovson, Cascade County Tavern Association
Gary Hildenbank, Shortbranch Lounge, Whitefish
John Gordon, Great Falls
Lynn Seelye, Sailboat Lounge, Great Falls
Casey LaFlesh, Missoula
Dan Clark, Helena
Steve Nelson, Missoula
Paul Gies, Lewistown
Labey, Montana Coin Machine Operators
Jim Lange, Missoula
Ron Scharf
J. Hayes, Secretary, Cascade County Tavern Assoc.

Opening Statement by Sponsor: SENATOR MIGNON WATERMAN, SD 26, Helena. This bill will allow restaurants to serve beer and wine. The public demand for change, and the change in public policy has been the scene for liquor control in Montana. Fraternal licenses and veterans were allowed these licenses which were originally transferable. Tourism and airports were given non-transferable and non-assignable licenses, then came golf courses under the same regulations. Then we allowed license for grocery stores and pharmacies which were also not transferable and had no quotas. Later these licenses were attached to gambling to help mom and pop places. We are tired of watching small restaurants in Helena go down, as they couldn't sell beer and wine with dinner.

This bill requires that 75 percent of gross annual income come from food, and is the highest percentage in the nation. The license can't be sold or transferred. The application fee is \$1000 and the annual renewal fee is \$300. Seventy licenses were issued the first year, so no more beer and wine licenses would be sold with gambling attached.

The Fiscal Note estimates eight beer and wine licenses with gambling were sold or transferred across Montana this year, and 16 new licenses under the existing quota system. The concerns of the industry about devaluation of licenses didn't happen. I have

an amendment proposed by Bruce McGinnis (EXHIBIT #1). The amendment simplifies and streamlines the whole process.

{Tape: 1; Side: A; Approx. Time Count: #10.9; Comments: None}

I also asked for an amendment to clarify what happens when someone applies for a license now with gambling attached. I will be available for questions and closing.

Proponents' Testimony: Lowell L. Bartels, McDonald's, Helena and Butte. We're not interested in obtaining such a license, and McDonald's in the U.S. are not allowed to have them.

Betsy Barnhart, Bozeman, self. I have 1000 signatures in support of the bill (EXHIBIT #2).

Paul Cartwright, self, read from prepared testimony in support of SB 354 (EXHIBIT #3).

B. A. Brockmeyer, self, stated his support of the bill.

Leonard Eckel, Helena small business owner and citizen, read from prepared testimony in support of the bill (EXHIBIT #4).

Bob Stevens, Bozeman, self. I am world-traveled, and was just in Bolivia. We were able to get beer and wine in restaurants there. In Salt Lake City, Utah they changed the liquor laws, and now they will host the 2002 Olympics. Seven thousand people will eat in Montana restaurants today. I have heard comments from travelers in Montana about the lack of beer and wine in restaurants.

John Toenyes, owner, Elmer's Pancakes and Steaks, Great Falls. I am not interested in gaming at this point, and I don't have the money to buy a \$150-250,000 license. My customers are mostly age 55-65, and continually ask me to get a beer and wine license. A number of formerly good restaurants have either become casinos or have been purchased by casinos in Bozeman. I don't believe the government had free breakfast in mind at casinos when they originally passed gambling legislation in Montana.

{Tape: 1; Side: A; Approx. Time Count: #27.0; Comments: 8:30 a.m.}

Carol Cassie, Mama Cassie's, Great Falls, read from prepared testimony (EXHIBIT #5). I don't want gambling machines, and I end up selling a lot of food to go so people can drink beer and wine with their meal at home. I only want to be able to meet the needs of my customers, and ask the Committee for favorable consideration of this bill.

Fred Weiner, Fred's Mesquite Grill, Bozeman. People constantly want to bring beer and wine into my restaurant. My customers want freedom of choice.

SENATE TAXATION COMMITTEE

March 11, 1997

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Jim Crand, small business owner, Bozeman. I believe we may begin to lose small mom and pop restaurants if this bill is not-passed.

Patrick and Missy Orliss, Whitefish restaurant owners. We have a restaurant in Whitefish. We are asking for a chance to compete on a level playing field.

John Shontz, Montana Association of Realtors. If the bill doesn't pass, I believe there will be an initiative and a petition on the ballot which will be far more onerous than this bill. I encourage your favorable consideration.

Robert Leach, Billings Association of Realtors. Member Ernie Dutton has done much research on this bill. A Pizza Hut closed and rebuilt in another location so as not to have to buy a new liquor license.

{Tape: 1; Side: A; Approx. Time Count: #39.8; Comments: None}

John Precciello, Costine's, Black Eagle. I don't want to be in the casino and bar business, but I'd rather be able to provide a glass of beer or wine to a customer. The net income off a gambling machine is said to be \$186,000 per year. Some own multiple machines, and they're giving away free food and beer to casino players. I saw a woman gambler pay for her groceries with food stamps. I ask that you pass this bill.

Bruce Evanson, self. I believe it's a person's right to go have a beer with his food when dining out.

Dave (unable to discern surname), Great Falls restaurant owner. I believe there is great concern over devaluation of liquor licenses.

June James, Centennial Inn, Dillon. People questions me because I don't have a liquor license. My restaurant is in a historic structure built in 1905. Clientele come from all over the U.S. and the world. Western Montana College uses my restaurant for prospective teachers.

{Tape: 1; Side: B; Approx. Time Count: #.09; Comments: 8:48 a.m.}

Steve Randolph, Emiliano's, Helena. I ask that the Committee support this bill.

Mike Casey, Helena Economic Development Commission, and Helena Prudence Society. I believe the bill addresses the past concerns of the Montana Tavern Association.

Cathy and John Ramirez, Mountain Meadow Inn, Helena (formerly the Upcountry Inn). We want to offer fine dining without gaming machines. We encourage the Committee to look at this alternative, and believe it will increase jobs and the state tax base.

Tim Ryan, Executive Director, High Plains Development, Great Falls. We believe this is a good compromise, and that the amendments address the concerns of the Montana Tavern Association. I'm not sure the State should be in the business of selling something for \$800 which could be worth \$200,000.

Alec Hansen, Montana League of Cities and Towns. Our members voted to strongly support this type of legislation for community development and expansion of small business in Montana. I am a long term financial supporter of the finance industry.

Stephen Tang, Jade Garden, Helena, stated his support of the bill and provided a petition with 400 signatures (EXHIBIT #6).

Denny and Christine Staggs, Red Bird, Missoula, comments they have 17 tables in their restaurant. This bill would allow for fair and healthy competition. We're from Montana, and we want to stay here. A beer and wine license in Missoula now sells for \$315,000, a ten-fold increase in 10 years. There are 26 inactive beer and wine licenses in Missoula, and about 20 are in convenient stores and connected with gaming. I also have a petition with 210 signatures obtained over the past two weeks (EXHIBIT #7). There was a recent "CLB overlay" problem in Missoula, and they wanted to zone without gaming.

{Tape: 1; Side: B; Approx. Time Count: #15.9; Comments: None}

Ellen Engstedt, Don't Gamble with the Future, read from prepared testimony in support of the bill (EXHIBIT #8).

Keith Clevenger, Staggering Ox, Helena. This goes beyond the monetary issue. We want to offer the public what they want to drink. (EXHIBIT #9).

Alan Ruby, Kalispell contractor, read from prepared testimony (EXHIBIT #10). I don't own a restaurant, but am a contractor. I spoke with area professional people. The bar owners have no problem with this bill. The bankers use the licenses as security collateral. Others were bothered by the limit of licenses. I asked your favorable consideration and have a letter from Dick Gordon (EXHIBIT #11).

Jim Crestmeier, Missoula. It appears existing licenses have become a commodity.

Bruce Warner, Bozeman, stated his support of the bill.

J. M. Bender and B. Cullinan sent in letters in support of SB 354 (EXHIBIT 12).

(EXHIBIT 13) petitions sent in from all over the state in support of SB 354.

Opponents' Testimony: REPRESENTATIVE BOB KEENAN, Bigfork. I am a fine restaurant owner with no gambling. As of December 13, 1996 there were beer and wine licenses available in Billings, Helena, Missoula, and Bozeman. I suggest the Committee make the new licenses cost \$10-15,000. Cascade County has three all-beverage licenses available within Great Falls. Yellowstone County has 24 all-beverage licenses available.

Mark Staples, Montana Tavern Association. We are here to defend the rights and privileges of 2000 Montana families, who are also mom and pop organizations. We have gathered petitions in the past ten days with tens of thousands of signatures to dwarf those presented by the proponents. We represent 200 all-beverage licenses and 200 beer and wine licenses, most of which have five or fewer gaming machines.

Gaming has been in place in Montana since 1989. One owner in Great Falls has been offered a license for free, but won't take it. Fine restaurants don't have to be associated with gaming.

It's not fair to current license owners for new ones to pay far less for their licenses in this bill. Most banks are concerned about the ramifications of this bill, and I have letters from some of them (EXHIBIT #14).

This is a competition issue. We believe hundreds of current licenses will be sold if this bill passes. If the Department of Revenue were to investigate all these new businesses, that would cost millions of dollars. And without these investigations, we don't have a level playing field.

Allen Bock, self and The Brewhouse, Helena. We just went through the licensing process and to change now would be horribly unfair.

Robin Hampton, Sec-Treas, The Brewhouse, Helena. I specialize in small business loans, and do not finance casinos. The government tendency is to close the barn door after the horses are out. The restaurant business is more competitive than any other, and has had more failures than any other. In the past five years liquor licenses have become a good form of collateral. If the bill passes we will see a drop in value. The Brewhouse is a non-smoking restaurant. Many would like to be compensated for probably huge losses if this bill passes, and I believe it would benefit large out-of-state corporations far more than mom and pop operations.

Laurie Shadoan, Bozeman. We have two restaurants in Bozeman and a lounge, as well as an all-beverage liquor license. The problems are that it is difficult to monitor and the low fee for the license in this bill. We have one poker machine. Alcohol consumption per capital was down to 25.1 gallons in 1995 from 28.1 gallons in 1990.

Darrell Keck, Shelby tavern owner and President, Gaming Association. Twenty-five percent of people in Shelby signed against this bill. I believe it is a poor bill. In 1995 the National Restaurant Association reported a 90 percent failure during the first year of business. I ask that you all call home before you vote for this bill for unlimited alcohol outlets in Montana. A deli-restaurant in Shelby failed twice with a beer and wine license, and has now been open for a year without beer and wine and is doing very well.

{Tape: 2; Side: A; Approx. Time Count: #13.0; Comments: 9:40 a.m.}

Bill Hands, Darby, small business owner, stated his opposition to the bill.

Marilyn and Kevin Conner, co-owners, Woodpecker's, Helena. We own a full family restaurant on one side with no smoking or gaming, and we oppose this bill.

Gene Burgett, owner, The Rex, Billings. I pay \$15,000 per month on my liquor license. Restaurants without gaming would be forced to consider gaming as their licenses will be devalued. This bill creates tremendous potential for expansion of gambling. We serve alcohol responsibly and don't our it down our customers.

Bob Fletcher, The Cannery Lounge, Bozeman. I have been in this business nearly 20 years, and I believe we will see beer joints galore with this bill. I don't see how the Department of Revenue will be able to check upon on this, and that is a good reason to look seriously at this bill.

Mike Muncie, The Depot Restaurant, Missoula. This is my 24th year, and I have invested substantially in real estate and the building my restaurant is in, using the value of my liquor license. My alcohol sales are less than seven percent of sales. There have been 16 beer and wine and all-beverage licenses issued in the past six months. We are asking for a level playing field.

Bill Hannaker, Walker's Grill, Billings. I am here to save my business, and am a licensed real estate broker in Montana. The problem is that only one side has something at risk. My license cost 30 times what they'd be paying for theirs. We must look at who this affects - mostly restaurants without gaming.

I would sell my license and try to get a \$1000 license, but I don't believe I could afford to do so now. We all believe in free enterprise, and it can't be freer for some than for others.

Bob Zimmorino, Red Pies over Montana, Missoula. We began in 1979. In 1981 we were granted a census license. I didn't take the profit and run, but chose to reinvest, yet I couldn't afford to open in Bozeman because the liquor license would have cost \$200,000-plus. My businesses are no-smoking and non-gaming.

I had to play by the rules, and now I don't think it's fair to be penalized. I ask that if you are going to change the rules, you do so fairly.

{Tape: 2; Side: A; Approx. Time Count: #28.8; Comments: None}

Sarah Herold, Capitol City Bowl. I am required to pay \$800 to the state, \$500 to the city, and \$250 to the federal government in order to use my current license. Will our fees be reduced to be equitable? Wendy's and McDonald's fit the 75 percent food income requirement and kids work there. Would a waitress card all customers at a table before serving a food order? I have a full liquor license and eight machines, but we make our money on bowling. My husband and I choose not to drink with dinner. I ask that the Committee do not pass this bill.

{Tape: 2; Side: A; Approx. Time Count: #31.5; Comments: None}

Harold Fraser, First Security Bank, Missoula. I am Senior Vice President and Director of this bank, and have a lot of experience which should represent common sense. I am not in favor of this bill as it sits. I ask that you table the bill until it is amended, as it does not address the equity issue for current license holders and access to capital. I predict an increase in business failure with this bill, which will cost Montana much in lost tax revenue and elsewhere. For the past ten years Montana restaurants already have a failure rate higher than the national average, and it has the highest restaurant failure rate in the six-state region. I believe we need a more meaningful price of \$15,000-30,000 for these licenses, and ask that you listen to my 30-plus years of experience.

Reeder Seshy, Black Eagle. I have been in business for 60 years, and have held the same license for that time. I am also a lifetime member of the Montana Tavern Association, and have only five gaming machines. This quota was pushed by church people before, but the juvenile problem in this bill is not addressed. Central Avenue in Great Falls just went bankrupt and left the American Legion license debt of \$325,000 when the original cost was \$25.

{Tape: 2; Side: A; Approx. Time Count: #39.2; Comments: None}

Jim Grubbs, casino-restaurant operator, Billings. I am in the pizza business. This same thing happened in Wyoming in the early 1980s, and within six months about thirty percent of existing licenses were up for sale. In nine months the value had dropped by fifty percent, so within two years we had to sell our business at a loss.

Ramani Mohan, high school student/restaurant worker. I am sixteen years old and work in a food service establishment. If they began to serve alcohol, we teens would lose our jobs. She presented (EXHIBIT 15).

Patti Warburton, Pizza Depot, Shelby. I have operated the Pizza Depot in Shelby for the past five months and am on a temporary license now.

Rose and Chester Bullock, Basin, and Tri-County Tavern Association. Our retirement is our place of business. Two years ago a license was issued to a fine dining restaurant in Basin which is no longer in operation. So, liquor doesn't guarantee success.

{Tape: 2; Side: B; Approx. Time Count: #00.0; Comments: 10:12 a.m.}

Burr Lively, Southwest Montana Tavern Association, Dillon, and owner, Melrose Bar, stated his opposition to the bill.

Bill MacIntyre, Pug Mahon's, Billings, stated his opposition to the bill.

Jim Johnson, self and Montana Fraternal Order of Eagles, Red Lodge. I own a saloon in Red Lodge and have put my life savings in this, so I'm concerned about devaluing of licenses. I'm also a member of the Eagles Lodge, and at their state convention, they voted overwhelmingly to oppose this bill.

Barry Smith, Somers. I urge caution in this bill, and have sympathy for the situation. I have a dinner house in Somers with an all-beverage license. I am concerned with the ripple effect if the Legislature acts too quickly, and as to how the State will monitor the far and away bed and breakfast establishments, for example.

Carl Solvie, Gran Tree Inn, Bozeman. I have a motor inn and restaurant in Bozeman, and am a beverage license owner. I believe this bill is wide open, and urge you to vote no.

Diane Guy, El Commodore, Great Falls. I do not serve alcohol, and was initially denied a beer and wine license. I have worked in the Restaurant since age 14, and am still trying to make a living. She presented (EXHIBIT 16).

Clare O'Malley Gould, O'Malley's, Canyon Ferry. We paid top dollar for our license, and SB 354 would jeopardize our investment.

Fred Keller, family restaurant manager, Missoula. Our license was purchased in 1972 for \$10,000.

Tami Kinoker, Iron Horse, Missoula, and Missoula County Tavern Owners. I oppose this legislation.

Brian Cote, Coyote's Sports Grill. I borrowed \$300,000 for my license.

Blu Funk, Showthyme Restaurant, Bigfork. My restaurant is non-gaming and non-smoking.

{Tape: 2; Side: B; Approx. Time Count: #2.8; Comments: 10:22 a.m.}

Loren Bateen, JD's, Billings. We confiscated six fake I.D. cards last Saturday night, and I believe this bill will enhance minor drinking. There are tons of false I.D.s around. We had 350 of them in one year. How concerned would someone be about losing a \$1,000 license?

Cal McOmber, Corvallis Tavern. Maybe we need a bottle club bill.

Bruce Fowler, Missoula. I have had my license for 24 years. Sales have declined on average 10-30 percent.

John Greenwood, Frenchtown Club, and President, Missoula County Tavern Association. I suggest making a commitment and buying small if you want to own a restaurant and don't have a lot of money for a license.

Dean Clinkenbeard, Deano's, Missoula. We have two licenses, and I strongly oppose this bill.

Laura Fix, River Grill, Helena. As general manager, and on behalf of my family, we strongly oppose this bill.

Barb Morris, Jorgenson's Helena. I believe this bill will hurt more than it will help.

John Tovson, Cascade County Tavern Association, stated his opposition to the bill.

Gary Hildenbank, Shortbranch Lounge, Whitefish, stated his opposition to the bill.

John Gordon, Great Falls. I have been in the restaurant business for 15 years, and am now in the business of consulting and am a non-institutional investor in restaurants and bars. I want to go on record in agreement with Mr. Fraser from Missoula.

Lynn Seelye, Sailboat Lounge, Great Falls. Red Lobster said Great Falls didn't fit their criteria, and Chili's said it didn't fit their system.

Casey LaFlesh, Missoula, Dan Clark, Helena, Steve Nelson, Missoula, Paul Gies, Lewistown, Labey, Montana Coin Machine Operators, Jim Lange, Missoula, and Ron Scharf, Missoula all stated their opposition to SB 354.

(EXHIBIT 17) was sent in by J. Hayes, Secretary of the Cascade County Tavern Association.

{Tape: 2; Side: B; Approx. Time Count: #22.6; Comments: None}

Questions From Committee Members and Responses: SENATOR BARRY

STANG. I would like a breakdown of application fees and license renewals for the Committee. **Diane Kuntz, Department of Revenue.** I will get this information for the Committee.

SENATOR MIKE SPRAGUE. Concerning establishing "value", it seems this is a problem whose time has come. What do you deem the value of a restaurant receiving a license and the loss of value to someone already invested. **John Gordon.** A new license value would be about \$25,000, but it would require more study to make a more accurate estimate.

SENATOR SPRAGUE. How do you account for an increase in value of these licenses? **SENATOR WATERMAN.** I see this as supply-side economics, because there will be fewer licenses available; however there are 126 licenses without gaming attached now, and 60 with gaming attached.

SENATOR MACK COLE. Can you make this livable? **Mark Staples.** There does need to be a value, and we can't have an unlimited class of licenses and still have a legal structure and a quote system, too. Other states have taken new licenses as a percent of the quote system. Airport licenses are very controlled already. Otherwise, people can bring their own bottle, which is illegal now.

SENATOR DOROTHY ECK. I would like to see information on the taverns and gaming in Bozeman from the list you gave us, and I want to see the number of licenses purchased prior to 1985, as that's when license prices began to change. **Mark Staples.** Okay.

SENATOR FRED VAN VALKENBURG. We were asked to consider testimony concerning the possibility of liquor licenses in fast food restaurants, so would you be amenable to prohibiting workers under age 21 from such establishments, or allow them to work, but not serve alcohol if they're under 21? **SENATOR WATERMAN.** If you'd support this for all classes with no restrictions, I believe we would see a great employment opportunity, as restaurants in the state would begin to thrive.

SENATOR VAN VALKENBURG. How do we separate the mom and pop restaurants from the Red Lobsters and the Olive Gardens? **SENATOR WATERMAN.** I don't believe we can require them to be a state resident to own one of these licenses.

{Tape: 3; Side: A; Approx. Time Count: #00.0; Comments: 10:50 a.m.}

SENATOR VAN VALKENBURG. What value do you put on such a license? **Harold Fraser.** I would not give them a value, as they are not transferrable from a collateral standpoint.

SENATOR SPRAGUE. I believe the whole argument boils down to value, and ask that you give us a ball park figure in gain or

loss of value. **Harold Fraser.** It could lead to devaluing of existing licenses by up to 50 percent. I believe this will seriously affect access to capital. We are the biggest lender in Montana with SBA loans, and we make a lot of restaurant loans, so we need to restrict entry to being established by market value.

CHAIRMAN DEVLIN. Would you loan more to a new licensee? **Harold Fraser.** If revenue were enough to offset the lack of collateral, that is, it would be a very limited asset.

{Tape: 3; Side: A; Approx. Time Count: #5,8; Comments: None}

SENATOR BOB DEPRATU. Can restaurants sell this devalued licenses and buy a new \$1000 license and continue in operation? **Mark Staples.** Some could and might. Only one-third of fifty fraternal licenses have sold, and some are holding on as they still hold value.

SENATOR DEPRATU. Are you familiar with the corporation that owns Pizza Huts? If they sold, could another entity, such as a casino be started? **Mark Staples.** Plausibly, yes.

Closing by Sponsor: **SENATOR WATERMAN.** **REPRESENTATIVE KEENAN** was referring to licenses five miles outside the city limits. Regarding the Great Falls fraternal license, I believe Montana businesses should 'make or break' it on their own.

I realize some current licenses could become casinos. Are we saying that 100-150 fine dining restaurants in Montana are enough? There are applications and requirements to obtain new licenses.

I felt that the opponents were worried about being put out of business. My supporters are not afraid of competition. I have no lines in the sand with this bill, and am more than willing to work with folks on both sides to resolve this matter now.

The cost of renewal for off-premise is \$400, and the license if \$500. I am not wed to \$1000, to believe \$25,000 is also out of line. Under the quota system you could get a license for \$400 which 24 hours later sold for \$150,000. We've set this license price two and one-half times as high with no provision to transfer or sell. It costs \$400 for a license and \$400 for renewal for the 700 grocery and pharmacy outlets in Montana.

I find the bottle bill idea very interesting. A new bank charter costs only \$3000. I'm not sure why we'd want a quota system. I tried to keep this simple.

In **SENATOR DEPRATU's** district they can support twice as many restaurants as they have greater tourism. A quota system has criteria and quotas, and this bill has requirements and limits. This is like a grocery store license, so there are no guarantees.

It is capped because we will have 30-32 more licenses in two years, and if the bill passes we will have half that number.

You do not pay personal property tax on that beer and wine license. Montana has seen a dramatic increase in the value of these licenses. We need to think on how to protect those with current licenses, yet address Montanans who want the same opportunity. I believe McDonald's is an example of good competition, and I urge you to pass this bill for economic development.

HEARING ON SB 372

Sponsor: SENATOR MIGNON WATERMAN, SD 26, Helena

Proponents: Mary Bryson, Director, Department of Revenue
Gordon Morris, Director, Montana Association of
Counties (MACO)
John Shontz, Montana Association of Realtors

Opponents: Letter sent in from Carbon County Courthouse Personnel
(EXHIBIT 18).

Opening Statement by Sponsor: SENATOR MIGNON WATERMAN, SD 26, Helena. This bill is the product of the concerns of county commissioners and others in the real estate industry about the time it takes to get the name of the current owner of a property on the property tax rolls.

{Tape: 3; Side: A; Approx. Time Count: #30.8; Comments: None}

Right now, they take the owner of record as of January 1 of that year, so even if ownership changed later on, the tax notice would go to the owner on record of January 1. The new owner is then dependent upon the former owner's willingness to forward the tax notice. At times these notices are not forward, and this has resulted in tax delinquencies. "Splits" in the bill have been difficult and controversial, and we have gray bill amendments.

Proponents' Testimony: Mary Bryson, Director, Department of Revenue. We support the bill and believe it is good legislation.

Gordon Morris, Director, Montana Association of Counties (MACO). Governor Racicot heard from people concerning these transfers and convened an interim committee of title companies, treasurers and assessors, and real estate people to study the situation, and they came up with SB 372. There was concern that we could not follow "splits" appropriately, so they were removed from the bill. This legislation takes a step in the right direction to address taxpayers' concerns.

John Shontz, Montana Association of Realtors. We believe the task force effort was a waste of time, because if you buy property in January currently, you would not become the owner of

3-11-97

SENATE TAXATION ~~8X~~

DATE _____

EXHIBIT NO. 1

BILL NO. SB 354

Amendments to Senate Bill 354
Introduced Version
Requested by Department of Revenue
For the Committee on Taxation
Prepared by R. Bruce McGinnis
March 10, 1997

1. Page 1, line 16,
Following: "and wine license"
Insert: "to an applicant"

line 16,

Following "whenever"

Insert: the department determines that each applicant, in every case, has all the following qualifications and satisfies all the requirements provided in this section"

2. Page 1, line 17

Following: "applicant"

Strike: the remainder of line 17

Insert: "in the case of an individual applicant:

(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(ii) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) in the case of a corporation listed on a national stock exchange the corporate officers and the board of directors must meet the requirements of subsection (1)(a);

(ii) in the case of a corporation not listed on a national stock exchange each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a) of this section; and

(iii) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity, including but not limited to partnerships including limited liability partnerships, limited partnerships, limited liability companies, but the term does not include any form of a trusts:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (1)(a); and

(ii) if the applicant consists of more than one corporation, all corporations listed on a national stock exchange must meet the requirements of subsection, (1)(b)(i), and corporations not listed on a national stock exchange must meet the requirements of subsection, (1)(b)(ii).

Renumber: subsequent subsections

3. Page 1, line 24
Following: "understands"
Insert: "and acknowledges in writing on the application"

Page 2, lines 1 and 2

Following: "(e)"

Strike: the remainder of line 1 and all of line 2

Insert: "Upon receipt of a completed application for a license under this section, accompanied by the necessary license fee as provided in [subsection 6], the department shall request that the department of justice make an investigation of all the items relating to this application as listed in subsections (i) through (v). Based on the results of the investigation or in exercising its sound discretion the department shall determine whether:

(i) the applicant is qualified to receive a license;

(ii) the applicant's premises are suitable for the carrying on of the business;

and

(iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(iv) License applications submitted under this section are not subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(v) If the premises proposed for licensing under this section are a new or remodeled structure, the department may issue a conditional license prior to completion of the premises upon reasonable evidence that the premises will be suitable for the carrying on of business as a bona fide restaurant, as required by [subsection 2].

4. Page 2, line 21

Insert: **NEW SECTION. Section 2. Denial of restaurant beer and wine license.** (1) A restaurant beer and wine license may not be issued by the department for a premises situated within a zone of a city, town, or county where the sale of alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department.

(2) A restaurant beer and wine license may not be issued or renewed if the department finds subject to the opportunity for a hearing pursuant to Title 2, Chapter 4, part 6, MCA, that the applicant or the premises proposed for licensing fail to meet the eligibility or suitability criteria established by this code.

Renumber: subsequent sections

5. Page 2, line 21
Following: "license for"
Strike: "gaming or gambling"
Insert: "certain gambling activities"

Page 2, lines 21 and 22, and Page 3, line 1

Following: "(1)" on line 21

Strike: lines 22 through 30 on page 2, and line 1 on page 3

Insert: "To be eligible to offer gambling under Title 23, chapter 5, parts 3, 5 or

- 6, an applicant must own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201; or
(b) a license issued prior to [the effective date of this act] under 16-4-105,
authorizing the sale of beer and wine for consumption on the licensed premises.

(2) For purposes of section, a license issued under 16-4-105, prior to the [effective date of this act] transferred to either a new owner or to a new location or to new ownership and location by the department of revenue pursuant to the applicable provisions of Title 16, MCA, shall continue to be eligible to offer gambling if the new owner and the premises qualify under Title 23, Chapter 5, parts 3, 5, or 6 MCA."

6. Page 3, line 2

Insert: "Section 4. Section 16-4-105, MCA, is amended to read

"16-4-105. Limit on retail beer licenses -- wine license amendments -- off-premises consumption. (1) Except as otherwise provided by law, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, firm, or corporation that is approved by the department as a fit and proper person, firm, or corporation to sell beer, except that:

(a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than one retail beer license, which may not be used in conjunction with a retail all-beverages license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for every additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(b) the number of the inhabitants in incorporated cities and incorporated towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the cities or towns, governs the number of retail beer licenses that may be issued for use within the cities and towns and within a distance of 5 miles from the corporate limits of the cities and towns. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both the incorporated municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both municipalities and may not exceed the limitations in this section. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(c) retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations;

(d) the limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949;

(e) the number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity.

(2) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. A person holding a beer-and-wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(3)(a) A license issued pursuant to this section after the [effective date of this act] must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(b) The prohibition contained in subsection (3)(a) does not apply to licenses issued under this section, if the department received the application prior to the [effective date of this act]. For purposes of this section receipt by the department shall mean the application was placed in the United States mails before [the effective date of this act] and the mail

cover is postmarked by the United States Postal Service before [the effective date of this act], or the application was consigned to a private courier service for delivery to the department before [the effective date of this act]. An applicant consigning an application to a private courier shall provide to the department, upon demand, documentary evidence satisfactory to the department that the application was consigned to a private courier before [the effective date of this act].

Renumber: subsequent sections

7. Page 5, line 26

Following: "instruction."

Insert: "(1)"

line 27

Following: "Title 16,"

Insert: "Chapter 4, part 4,"

line 27

Following: "of Title 16"

Insert: "Chapter 4, part 4"

8. Page 5, line 28

Insert: "(2) [Section 3] is intended to be codified as an integral part of Title 23, chapter 1, Part 5, and the provisions of Title 23, chapter 1 part 5, apply to [section 3].

My name is Betsy Barnhart
from Bozeman Montana, in a
short period of time we have
collected over 1000 signatures
in support of this bill - We
would like your support too.
Thank-you

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 2

BILL NO. 30354

Exhibit # 2 - Grey envelope
w/ signature sheets

The full exhibit is available from:

MT Historical Society Archives

225 North Roberts

P. O. Box 201201

Helena, MT 59602-1201

Phone: (406) 444-4775

NAME CHRISTINE STAGGS
ADDRESS 639 Howell Msls Mt 59802
HOME PHONE 406 549 6527 WORK PHONE 406 549 2906
REPRESENTING Red Bird
APPEARING ON WHICH PROPOSAL? SB 354
DO YOU: SUPPORT X OPPOSE _____ AMEND _____

COMMENTS:

I am a RESTAURANT owner. My clients want a glass of beer or wine with the gourmet food I serve. How can we as a state withhold this consumer right? How can we justify the inflated cost of licenses on the open market-- which the state receives a renewal fee only. I am not under the assumption that no one will be hurt, but I am hurting also. Not being unsuccessful, but dealing w/ aggravated customers who DO NOT UNDERSTAND the business costs and why they are difficult for small businesses to amortize out the costs. I don't want machines in a separate room. I DON'T WANT GAMING. I will pay & and run fairly for consumption. Perhaps SB#354 isn't perfect, but it is a step in the right direction.
WITNESS STATEMENT Thank You for Your Time.
PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

3-11-97

TESTIMONY ON SB354, RESTAURANT BEER AND WINE LICENSE

Submitted by Paul Cartwright, 3-10-97

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 3

BILL NO. SB 354

Restaurant beer and wine licenses will pay far more to the treasury than any other class of license.

Application fee for beer and wine licenses (one-time only):	\$0 (plus \$400 annual fee)
Proposed fee for restaurant beer and wine licenses (each time the restaurant is sold):	\$1,000 (plus \$300 annual fee)
Market value of beer licenses in major cities:	\$100,000-200,000 (reportedly)
Amount of this paid to the state treasury when licenses are sold:	\$0
Original license fee for new all-beverage licenses,	
Cities over 10,000:	\$20,000
All other areas:	\$0

Offering gambling still appears to have financial advantages.

State-wide video machine annual gross income (after payout of winnings)		
	1994	\$200,300,000
	1995	\$208,073,000
	1996	\$213,565,000
Percentage of locations grossing \$25,000 or more:		70%
Percentage of locations grossing \$10,000 or more:		88%
Percentage of all locations with machines that have 6 or more machines:		66.8%
Percentage of beer/wine licences with gambling that have 6 or more video machines:		70%
Average annual gross income of small establishments with 3 video machines (1996):		\$17,000

(over)

Not many of existing beer licenses without gambling are likely to be exchanged for restaurant beer and wine licenses.

Number of beer licenses, no gambling, in areas where new beer licenses no longer are available: 126
(Includes licenses on the Flathead Reservation, where gambling currently isn't permitted, and licenses held by people planning to open a casino.)

Number of licenses without gambling, by city:

City	Total number of liquor licenses	Beer licenses w/o gambling
Anaconda	46	2
Billings	128	10
Bozeman	41	5
Butte	116	9
Great Falls	108	8
Havre	25	3
Helena	58	7
Kalispell	31	3
Missoula	96	10
Red Lodge	19	3
Townsend	10	1
Whitefish	18	3

Number of these licenses likely to sell, based on the state's experience with veteran and fraternal all-beverage licenses that came on the market following a court case in 1991: 39 over 5 years

The existing quota system does not suspend the rules of economic behavior.

Denying businesses the right to compete tends to increase prices and/or reduce the range and quality of products sold.

People who don't have to sell a product to survive are unlikely to sell when the market is dropping.

EK

LEONARD B. & CONCETTA MARIE ECKEL
❖ 19 ROCKY MOUNTAIN DRIVE • CLANCY, MONTANA 59634 • 406-933-8300

March 11, 1997

Senator Gerry Devlin
Senate Taxation Committee

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 4

BILL NO. SB 354

Reference: Senate Bill 354

Dear Mr. Devlin

While Senate bill 354 presents many positive benefits for those of us who enjoy dining out and having a good glass of wine with our meal, the discussion should really center around what we believe is the the most compelling issue here: what best serves the interest of the citizens of Montana? We would ask for the support of this bill by the Montana Legislature for the following reasons:

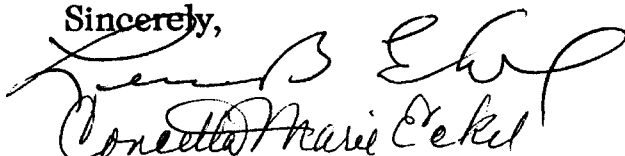
1. The existing license structure neither benefits the state or communities through the escalation of current license values. It also limits the opportunity for success of small business who want to enter the restaurant business. Resort communities, and communities with growing populations are virtually shut off from new restaurant opportunities.

2. This bill would provide an opportunity for our citizens who choose to take the risk to enter the restaurant business by allowing them to serve beer and wine and letting the free enterprise system determine who will succeed or fail based on product and service, not limits on competition.

3. Unlike when this system was instigated, there are enough hurdles to entering and maintaining a successful business already in place to assure "control" over these new entrepreneurs. Rules, regulations and health inspections are adequate control!

Please give this bill your committee's positive recommendation for the benefit of our state's economy and citizens' choice in the marketplace.

Sincerely,


Leonard B. Eckel

Concetta Marie Eckel

Small business owners

* Mama Cassies Italian Restaurant Ex
Attn: Senate Taxation Comm. 3/11/97

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 5

BILL NO. SB 354

Mr Chairman and members of the Committee. My name is Carol Cassie sole owner of Mama Cassies Italian Restaurant in Great Falls. I have been at the same downtown location for eleven years.

Today is the continuation of a journey that started nine years ago. In 1988 it came to my attention that a beer and wine license was available from the State for the Great Falls Area. 5 or 6 other restaurants applied, presented their proposals and in the end Mama Cassies was awarded the license. One of the other applicants challenged this award and upon reconsideration they were given the license. The key to this reversal was that their appeal claimed that they would better meet public need by installing gaming machines in their restaurant. Their ability to convince the board that a larger revenue base would come from the use of gaming machines.

For the past 11 years I have kept a very strong Customer base - numerous people will still not come for dinner because they can't get a glass of wine - so they take it home and buy a bottle of wine at the market because they don't want to go to a place that has a Casino. Why do we have to make it so difficult for the public. The thousands of names that all of us have received on our petitions proves that the public wants a choice - and they are the ones we are all trying to please!

In my eleven years of business I have seen many business come and go in the Great Falls Area and unless a Restaurant can survive on its own merits a beer and wine license will not necessarily make it work. It takes a lot of hard work - long hours and a lot of love and a glass of wine won't hurt.

It is not my intention ^{or} any one else here in support of SB 354 to compete with the Bars and Casinos.

Now is it my intention or belief
that it would reduce the value
of any existing licenses. Because
of the type of license would not
be worth anything ^{to any one} other than
the existing restaurant. It is
merely my goal to be able to meet
the requests of my customers
by allowing the serving of a
glass of wine. If I had wanted
to be involved with a bar or
casino I would have done it
years ago with one of the numerous
members of our community that
wanted Mama Cassies to be
a part of them. No! Not my intention!

It is for these reasons that
I request the committee to look
favorably on Sen Waterman SB 354
and recommend that it be passed

Thank you

Carole Cassie

Red Bird / NSLA

204

** Missoula's locally owned, small restaurants need your support and thank-you for your patronage.

SENATE
WE STRONGLY SUPPORT HOUSE BILL #354. THIS BILL ALLOWS THE
CREATION OF A BEER AND WINE LICENSE FOR RESTAURANTS
WITHOUT GAMBLING.

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 7

BILL NO. SB 354

(NAME)	(PHONE)
= Deb Greer	728-1911
= Kary Muller	251-2468
= Nancy Carson	549-8010
= Laura Bleh	543-5865
= Lindy Coon	543-7967
= Stacey Gordon	728-1812
= Tan Gordon	728-1812
= Penny Onwick	
= Michael Amos	728-1877
= Molly Baer Kramel	542-1370
= JEFF R. FLEHARTY	549-5855
= Ping Lin	543-0445
= SUSAN HARTMAN	721-1418
= Perry Cota	549-9563
= Jesse Poppick	721-6894
= Megan Cullen	549-9923
= Denny Stagg	549-6527
= Rahul Goen	549-1394
= Laurie Randall	728-6855
* Jeff	721-1752
= Shelley Young	721-0562

There are thirteen
additional names

3-11-97
SB 354

SENATE TAXATION

DATE March 11, 1997

SB 354 - SENATE TAXATION - MARCH 11, 1997

EXHIBIT NO. 8

Mr. Chairman and Members of the Committee

FILE NO SB 354

For the record, my name is Ellen Engstedt and I represent Don't Gamble With The Future. We are a statewide, grassroots, citizen-driven organization opposed to expansion of gambling and in favor of currently legal gambling. My membership is comprised of small business owners and their families.

We stand in strong support of SB 354 because it is non-gambling; it is consumer friendly; and, it is entrepreneurial.

Montana has thrived on a couple of principles. If a person invests time, resources and talent, success can be yours. And, we are diverse in our tastes. There are those of us who abhor gambling because of what it has done and is doing to our state and our population. But, that does not mean a glass of wine or beer to enhance the flavor of our food is unacceptable.

Until I became involved with Montana liquor license statutes, I was under the delusion that Montanans actually believed in the capitalistic form of government. In reality, we promote government-sponsored monopoly in both alcohol sales and gambling, thus discouraging many small, taxpaying enterprises. We also discriminate against the non-gambling public because restaurants, without spending a fortune, cannot provide their patrons with a simple glass of wine or beer to accompany a meal in an atmosphere without the noise of gambling machines.

The current system allows those who have beer and wine licenses to sell at the going market price. That would not

change with the issuance of licenses under which at least 75 percent of the restaurant's annual gross income must be from the sale of food and not alcoholic beverages. SB 354 does not provide for small bars to be established to compete with those already in business. It does not provide for bars at all.

Many of the people who would patronize the establishments with the new style license are not those who currently patronize casinos. They are people who are struggling to find a place in any Montana city that has decent food, a glass of wine and no gambling.

Many individuals have expressed interest in investing in small restaurants in towns all across our state, thus improving the tax base of local communities because these would be new businesses, not simply reshuffling resources. But, part of the need for this type of business venture is access to a beer and wine license that is not controlled by the monopoly and that does not cost a fortune. Small restaurants are labor intensive operations with profit margins under five percent -- not operations where gambling subsidizes the food and liquor and with a much higher profit margin.

For the owners of all-beverage liquor licenses (who are not affected even slightly) and owners of beer and wine licenses (most of whom only want the licenses for gambling purposes) to cry the mantra of "takings" in regard to those licenses is absurd. Instead, they should welcome the competition which, in

the long term, would enhance the business climate of their communities by providing some diversity.

That is exactly what SB 354 would do - allow individuals to invest in true small business ventures and allow Montana consumers the opportunity to dine in and support places without gambling.

Thank you for your indulgence and support of SB 354.

PETITION

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 9

BILL NO. SB 354

While this is not an official petition, restaurants across the state have been asked to offer this petition to their customers. By signing this petition you are acknowledging a desire to see an end to the quota system in regards to BEER & WINE licencing. Under SB 354 introduced by Mignon Waterman any restaurant that could pass basic licencing requirements WOULD be able to serve BEER & WINE. This type of licence however would NOT allow gambling or gaming.

So if at some point in your life you'd like to be able to enjoy a BEER or a GLASS OF WINE with your meal at STAGGERING OX, ~~signing~~ signing this petition may very well help make that a reality. If you'd like to testify in favor of this bill a hearing is set for 3/11/97 at 8:00 A.M. at the Capitol.

Signing

Name

Address

Are you a registered voter?

<u>John M. Ducebon</u>	<u>1000 Arizona St.</u>	<u>Yes</u>
<u>John J. Ducebon</u>	<u>Deer Lodge, MT</u>	<u>Yes</u>
<u>Jim Nollery</u>	<u>4210 WOLVERINE HELENA, MT</u>	<u>YES</u>
<u>Joseph P. Ducebon</u>	<u>62 S. Last Chance Gulch #5</u>	<u>Yes</u>
<u>Carla Bellon</u>	<u>745 S. Main St. Butte, MT</u>	<u>Yes</u>
<u>Rachael Ewing</u>	<u>24 S. Ewing Helena</u>	<u>Yes</u>
<u>Raf. White</u>	<u>7670 Hwy 2 E.</u>	<u>Yes</u>
<u>Tim Moran</u>	<u>P.O. Box 125 East Helena, MT</u>	<u>Yes</u>
<u>Annmarie Smith</u>	<u>804 W. Oregon #3</u>	<u>Yes</u>
<u>Doreen Smith</u>	<u>4745 Liberty Hwy E. Helena</u>	<u>Yes</u>
<u>John Todd</u>	<u>327 N. Ewing Helena, MT. 59601</u>	<u>Yes</u>
<u>Karen Kitts</u>	<u>20 ALTA Helena MT</u>	<u>Yes</u>
<u>Julia M. Adams</u>	<u>607 N. Warren - Helena MT</u>	<u>Yes</u>
<u>Andrew Rank</u>	<u>1 Capital Ct</u>	<u>Yes</u>
<u>Yvonne Gilbertson</u>	<u>1515 Chateau Helena, MT</u>	<u>Yes</u>
<u>Sam & GLOOG</u>	<u>5248 Green Meadows Helena</u>	<u>Yes</u>
<u>Brenda Richer</u>	<u>1125 Chateau Helena, MT</u>	<u>Yes</u>
<u>Gudrey D. Todd</u>	<u>1805 Jackson #147 Helena, MT</u>	<u>Yes</u>
<u>Karen Wiles</u>	<u>427 8th Ave Helena</u>	<u>Yes</u>

There are eight additional pages.

3/11/97

- 1 -

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 10

BILL NO. SB 354

Good morning Mr. Chairman; ~~respected~~
committee members. For the record, my
name is Alan Ruby from Kalispell, MT.
I'm here today to support SB 354.

I want you to know I don't own a
restaurant or associated business and I don't
intend to own one. I'm a small businessman,
a contractor, in the Flathead Valley.

When I read about this Restaurant Beer and
Wine license 3 weeks ago I thought now there's a
good idea ^{but} what's the catch? I called the bill's
sponsor and got a copy of the text and the
fiscal note.

Upon reading these I thought "what am I
missing?". This is a non-transferable beer + wine
license for establishments whose gross receipts show
75% in the sale of food. ~~which~~ with That's great.
There's no gambling attached. That should make
current beer + wine license holders happy - it
doesn't cut into their market or depreciate their
license. And it's affordable, \$1,000 initially
with a \$300 annual renewal.

In the following weeks I talked with ~~3~~ 3
tavern owners, 3 restaurant owners, 2 hotel
owners, ^{realtors, bankers,} ~~and~~ lawyers, doctors, ^{and other} contractors. I learned
a lot from these perspectives. || - let me share just
a few insights. First the tavern/casino owner;

He said he ~~existed~~ didn't have a problem with this at all. He ~~could~~ makes his money on the Video poker machines and as long as this bill doesn't create more casinos and he can still sell his current license - fine by him.

The ^{small} restaurant owners said if ~~the~~ she could serve beer & wine with a meal she could open for dinner, extend business hours, hire more help. She didn't want to ~~provide~~ provide gambling anyway and that wasn't her clientele.

Both hotel owners said they'd like to lease adjacent property to a Franchise restaurant such as Red Lobster or Olive Garden but these Restaurants wouldn't consider it until an affordable beer & wine license were available.

The bankers said they carried several loans with ~~Eligior~~ /beer /wine /gambling licenses as security. I showed them copies of S.B. 354. They couldn't see a problem with this devaluing that security. One loan officer actually felt it would ~~increase~~ increase the value for current ~~hot~~ license holders.

// But from my ~~spare~~ perspective the doctors, lawyers and other contractors common comment hit home. What bothered them was the state limited number of beer & wine licenses - and that they're transferable to boot.

The state doesn't limit the number of licensed building contractors, lawyers or doctors

car dealerships or hotels. why they all have investments in their business, careers, services. Why limit restaurants that can serve beer + wine? why is competition availability, variety

~~One hotel owner refused referring to a local licensed~~ and competition good for all these other businesses but not for restaurants? If a business is confident in ~~their~~^{its} product and service than they should welcome the competition.

I'm a small businessman and I can see S.B. 354 opening up new businesses, providing new jobs, increasing the tax base without adversely affecting existing ones. What more can we ask for? there is no catch. S.B. 354 is good for all us, it's good for Montana.

Please look favorably on this bill and pass it out of committee for ^{Full} Senate consideration.
Thank you.

3/11/77 re: Mignon Waterman

Amendments:

- Can't hold another license - changed to allow a separate business w/cabaret license @ another location.
- In process - allowed to go through



Pine Lodge

920 Spokane Avenue
P.O. Box 2089
Whitefish, Montana 59937
Phone: (406) 862-7600
Toll Free 1-800-806-7463
FAX (406) 862-7618

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 11

BILL NO. SB 354

TO: Allan

Ruby

From: Rick

McLamky

pag 1 of 1
752-5811

March 7, 1997

TO: Senator Bob DePratu

FROM: Richard E. Gordon, Owner, Quality Inn Pine Lodge, Whitefish

Dear Bob,

I'm sorry that I couldn't meet with you personally last weekend, but as luck would have it, I was out of town while you were in. I hope that you are enjoying your tenure in the legislature. Legislative sessions are usually not judged until they adjourn, but this one appears to be doing a good job.

You can continue to benefit the state and encourage small business by the passage of SB 354. At the present time all of the incorporated entities in the state are prevented from having the dining options that other states enjoy. This option is particularly important in resort areas such as Whitefish. SB 354 would help alleviate this inequity by allowing patrons in restaurants to enjoy a glass of wine or beer with their meal. This bill would not encourage the proliferation of "bars" but would encourage fine dining establishments to open. Here at the Pine Lodge we offer a fine example of a facility that would have a restaurant if we could serve even a limited amount of alcoholic beverage. The economics of opening a restaurant without alcohol prevent us from doing it. I'm sure there are many other properties in a similar situation. I am enclosing an excerpt from the liquor division in a brief they wrote concerning the transfer of a liquor license several years ago. You can see by this excerpt that even the liquor division feels that the focus of alcohol has changed.

The opposition to this bill will present some very convincing arguments against it. I hope that you can see beyond these arguments and find the benefits to a large group as opposed to the rather narrow needs of a small but powerful group.

Bob, I hope you can support this small business bill and return free market capitalism to Montana. Call me if I can be of any assistance in this matter.

Sincerely,

Richard E. Gordon
Owner

enclosure

cc Governor Radtcliff

SENATE TAXATION

DATE March 11, 1997

EXHIBIT NO. 12

BILL NO. SB 354

March 1, 1997

Senate Taxation Committee
Capital Building
Helena, MT 59620-0500

RE; SB 354

Dear *Gerry Derlin*

In many of Montana's communities we are seeing a turnover of generations. A large number of these people (including myself and a business partner) are purchasing old buildings in downtown areas that once contained restaurants. A majority of these new business owners are interested in operating a small, clean restaurant and rebuilding healthier communities, reminiscent of days past in Montana.

Unfortunately, a small restaurant really cannot compete against the Gambling institutions who are not at all interested in making profit off food sales because their main income is from gambling machines. These Casino's sell their food so cheap that they are happy if they break even. After managing a kitchen in a Casino for over seven years, I know this as a fact.

Simply passing the "Restaurant Beer and Wine License Bill" would give the small restaurant owner a chance of at least surviving. What we would like to do is run a respectable restaurant and survive doing what we enjoy so much.

The Tavern Industries argument that this Bill will decrease the value of their Liquor License is greatly exaggerated. This bill does not allow the restaurant to operate as a Tavern, Bar or Gambling establishment of any kind, as 75% of their income must be directly from food sales and gambling is not permitted. Any persons interested in opening a casino or bar will pursue the purchase of a full beverage license, thus retaining the value of the already existing license with their inflated prices. Compared to the original purchase price, these licenses will always remain several times more valuable. The Tavern Industries immense power in relation to the small businessmen, is not in jeopardy in anyway and this argument is greatly exaggerated.

Not only will this bill help us to survive, but will create jobs as well. With the change in welfare laws, we could put a great number of these people to work. In addition, with the recent increase of migration to Montana from other, more heavily populated states, added jobs is of the utmost importance.

When people from the rest of the country think of Montana and food, they think of small, friendly, homestyle restaurants. Unfortunately, when they arrive, they find noisy casinos dominating the industry. This is not the impression we want them to have.

Smaller Restaurants have gone out of business since gambling was introduced and Montana has been left behind in the Food Service Industry. Places like Louisiana, Washington, California and New York, and a host of others, are synonymous with there local food styles. Montana as well, should be included on this list, especially with our great cattle production. A Beer and Wine License allowing the smaller restaurant that specializes in our local cuisine to survive and compete would bring the atmosphere back to Montana.

There really isn't any good arguements against this hill. The lobbying being done by the Tavern owners just can't be competed against by the small businessman. Most of us just don't have the time or resources to come to Helena and convince you ourselves. Our passion for our business is just as great. Please, do not allow the monopoly and prejudice against the small businessman to continue. After all, isn't it the hometown type of people that Montana is all about. Allow us to survive in a business so many of us have grown up with and enjoy so much.

There are many people in our community (and others as well) that would greatly appreciate a quiet place to have a nice meal away from bar crowds and noisy casinos.

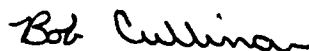
This opportunity is long overdue.

Now, ask yourself, are you going to vote for what is best for the future of business in Montana, or what is best for the Tavern Association's greed?

Jay M. Bender



Bob Cullinan



2/29/97

To Whom it may concern;

I am writing in Support of SB354.
I am NOT A gambler but I do
enjoy on occasional glass of wine or
a beer with my dinner.

Unfortunately, my choices of restaurants
with-out the loud noise of casinos
are limited. Missoula does not
have A liquor license, we have a
gambling license!

Again, its unfortunate that not
all businesses are able to work
in the Free Enterprise!

Kathy Murdock

THE SENATE TRAVEL COMMITTEE
FROM: JON TOLSON, PRES. CASCADE CO. TAVERN ASSOC.
RE: SB 354

THE TAVERN OWNER'S PERSPECTIVE

In 1947, the State of Montana imposed the quota system upon the alcohol beverage industry in an effort to control the availability of alcohol sales. By limiting supply of licenses, the State forced an inflation in the value of these licenses. The majority of people in the industry today have stepped forward and purchased these licenses at market value. Others have "proved-up" the value of their license with years of hard work and investment, just as homesteading farmers and ranchers have.

Representatives of industry and government have been struggling with this situation for several years, but as yet have been unable to solve the dilemma without creating a whole series of additional problems. The proposed cabaret license would offer a free beer and wine license to anyone whose gross sales were 75% food sales. No gaming would be allowed, and the license would be non-transferable. What about the unintended consequences of this proposal? Restaurants that now have all-beverage or beer and wine licenses, but no or miniscule gaming revenues, would be inclined to put their license on the market while pursuing one of these cheap new cabaret licenses. Current proposals offer no limitations on the numbers of cabaret licenses that could be issued, nor do they offer any system for the regulation of these establishments in maintaining the 75% food sales stipulation. Given the high failure rate (75%) in the restaurant industry, and the large number of employees under 21 in this industry, it is naive at best not to expect serious problems to develop. Meanwhile the existing licenses that have come into the market have caused values to drop drastically, snookering current license holders and banks out of their equity and security, while leading to a proliferation of new casinos.

Tavern owners aren't reacting to threats of new competition, but to the potential devaluing of their hard earned assets, and to the specter of competing with establishments paying nothing for licenses while existing establishments are stuck amortizing theirs. The situation is comparable to a proposed zoning change that would allow mobile and modular housing in a neighborhood that previously had none. While property owners may well appreciate the need for affordable housing for a large segment of the population, they would no doubt protest the change in zoning due to the potential adverse impact in the value of their property.

Any rash action to make significantly more beer and wine licenses available is fraught with dire and probably unforeseen consequences. Prudence should be the order of the day. What is needed is more time to explore more solutions. Lawmakers ought to maintain the status quo for now, and before you sign any petitions to change the system, be sure to ask yourself how you would react to that proposed zoning change.

March 9, 1997

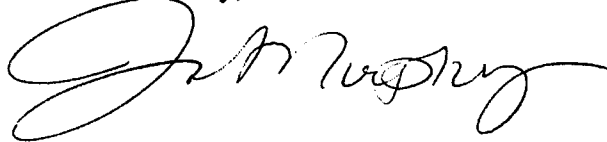
Dear Mr. Chairman,

My name is Jacqueline Murphy and I am an employee of Elmers Pancake and Steak House located in Great Falls. I am writing to you in support of the Senate Bill 384.

As a full time employee of Elmers, I can honestly say that I meet and greet hundreds of customers a week. My position as hostess requires that I am aware of our customers wants and needs, and my customers concerns become my concerns. Many times I have been asked for a glass of wine or to see a beer and wine list during our dinner hours. Most people are simply disappointed, many become very upset and there are some who leave our restaurant. I believe that our customers who do not drink alcohol choose not to, yet our customers who would like to cannot. It is simply a matter of choice that our customers want, and I feel that our customers choices should not be priced so high.

Thank you for your time,

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Murphy', with a large, stylized loop at the end.

Jacqueline J. Murphy

Hostess

Elmers Pancake and Steak House

Great Falls, MT

David G. Fulton
1140 Patterson Lane
Gt. Falls, Mt. 59405

10 March 1997

Senate Taxation Committee
Capital Bldg.
Helena, Mt.

Dear Mr/Mrs Chairperson

I would like to have this letter entered for consideration when your committee takes action on Senate Bill 354. I have worked for many years managing a restaurant in Gt. Falls and strongly support the current drive to update the laws for licenses applicable to restaurants in order that we may offer our customers more service and selection. Many of our customers would enjoy being able to have a glass of wine or beer as part of their meal while relaxing in the quiet family atmosphere we provide rather than that of the casinos or places which offer gaming.

Many of the tavern owners etc. seem to be against this new license claiming it will reduce the value of their licenses for which they have invested so much money, however they seldom seem to discuss the massive amounts of revenue they have received by having the gaming associated with them which I feel would add to their value.

Thank You for the opportunity to offer my thoughts.

Sincerely,

A handwritten signature in dark ink, appearing to read 'David G. Fulton', with a stylized flourish extending to the right.

David G. Fulton

123 East Main Street
Missoula, MT 59802
March 5, 1997

Senate Taxation Committee
Capitol Station
Helena, Montana 59620

To the Senate Taxation Committee Members:

On March 11, 1997, you will be deliberating Senate Bill 354, proposed legislation that, if passed, will allow the creation of a Restaurant Beer and Wine License, without gambling. Please consider the following in finalizing your decision whether or not SB354 should become law:

1) *New licensing is desperately needed by the small restaurants of this state* who have been squeezed out of the ability to serve beer and wine by an archaic and preferential "quota" system of issuing licenses. Obtaining a license under this system has bred an *inequitable and intolerable* situation whereby it is nearly impossible to obtain a Beer and Wine License directly from the State and prohibitively expensive to obtain one on the "secondary" market.

2) *The present quota system has altered*, whether by design or lack of foresight, *the economic forces of supply and demand* by limiting supply while demand has increased. As a result of the State's policies the price of a license on the "secondary" market has increased from around \$70,000 in 1992 to over \$300,000 in 1996 in Missoula, placing one of these licenses well out of the reach of most small restaurants.

3) *Existing licenses have become more than they were intended to be*. They have become a commodity to be traded, brokered, and borrowed against due to their lofty prices and transferability. They have become this by way of the laws and regulations of the state of Montana, namely, by limiting supply. If these licenses were nontransferable they would have no extrinsic value. The tavern industry lobby which will oppose Sb354 will argue that its passage will erode, or dilute, the value of their licenses. There are many who feel that this will *not* be the case. The licenses that SB354 will create will have no extrinsic value because they can not be transferred.

4) *SB354 is not meant to change the quota system or to alter the value of existing licenses*. It will, however, level the playing field and correct some inequalities that the state of Montana has perpetuated and failed to correct. **It will allow more small restaurants to participate in serving customers what they demand.**

The real question and challenge that faces this Committee and this Legislature really is not about SB354, rather, it is whether they will allow themselves to continue to be the handmaidens and protectors of big money interests at the expense of those with smaller dollar influence. SB354 provides an opportunity for lawmakers to insure that the small restaurants of this state can have some measure of competitiveness and a chance at economic survival so that more of us — restaurateurs, employees, food suppliers, etc. - can prosper. Passage of this bill will increase the state's revenue base by creating more jobs as a result of increased prosperity. Finally, passage of SB354 will end, to some extent, the charade that the State of Montana is controlling beer and wine for the public good by limiting licenses when, in effect, it has really been a partner in inflating the price of these licenses. I hope you will demonstrate the courage and wisdom to support and pass SB354.

Respectfully yours,

James P. Kretzmeier

Dear Senate Taxation Committee:

March 11, 1997

LETTER TO THE EDITOR (sent to Bozeman Daily Chronicle)

I would like to bring to your attention the unfair and unjust distributorship of liquor licences by the State of Montana. Currently, licences are set by a quota system according to population. Once a license has been issued by the state to a business it becomes private property. Just recently, one more license was issued for the Bozeman area. After an extensive review process the state for \$900 issued a new license which on the open market is worth approxiamtly \$200,000!

Herein lies various problems. The current system discourages entrepreneurship. It also takes away from your and my freedom of choice to where a person may have an alcoholic beverage with their meal.

New restaurant entrepreneurs with limited resources are unable to acquire a liquor license due to the outlandish cost to acquire one on the open market. However, large corporate chain restaurants and casinos will be able to front the initial investment for a liquor license. In the foreseeable future, yours and mine, when we want to go out and enjoy a beer or wine along with our meal we will be limited to choices of chain restaurants and casinos.

The current system of the issuance of liquor licenses will and is destroying the dreams of local entrepreneurs to open new restaurants throughout the state. However, there is a Montana Senate Bill to help alleviate this unfair system. SB 354 will provide a beer and wine license (no hard liquor) for restaurants with no gambling to be attached to the license, which will be only available from the state, can not be transferred or sold, can only be held by a restaurant that has at least 75% of its gross income from the sale of food, and allows only on premise consumption of beer and wine. Further, the license would be available for an initial fee of \$1,000 with an annual renewal fee of \$300.

Passage of SB 354 will benefit Montana's economy, provide the incentive for local entrepreneurs to successfully succeed in providing diverse and excellent dining experiences and solicit more choice for the consumer.

Please support SB 354 by contacting the Montana Legislature 406-444-4800 by March 10th or call me at 585-0090 for more details.

Sincerely,

Jim Horan, Proprietor Hellroaring Homebrew
517 East Aspen St.
Bozeman, MT 59715
585-0090

84
3-11-97
SB354

Licensing Regulations in Various States

Alabama
\$300 license fee

Alaska
Gross receipts from the sale of food upon the licensed premises must account for at least 50 percent of all of the gross receipts of the licensed premises. \$300 license fee.

Arizona
Business must derive at least 40 percent of its gross revenue from the sale of food. \$1,500 initial license fee, \$500 annual license renewal fee.

Arkansas
Hours of operation are regulated by the division. \$1,000 or \$500 annual license fee, based on number of seats in restaurant.

Colorado
Allows the sale of malt, vinous, and spirituous liquors to customers if meals are actually and regularly served and provide not less than 25 percent of the gross income from sales of food and drink of the business of the licensed premises. \$450 new license application fee.

Delaware
\$500 application process fee if the commission requires an investigation and hearing. \$500 biennial license fee.

District of Colombia
\$1,500 annual license fee for establishments that seat 200 or more people. \$1,000 annual license fee for establishments that seat 100 to 199 people. \$500 annual license fee for establishments that seat 99 or fewer people.

Florida
At least 51 percent of total gross revenues must come from the sale on the licensed premises of food and non-alcoholic beverages, not including catering sales.

Indiana
\$200 annual permit fee in cities or towns that have populations of 35,000 or more. \$150 annual permit fee in cities or towns that have populations less than 35,000. \$100 annual permit fee in areas that are located outside the limits of an incorporated city or town.

Kansas
Must derive 50 percent of gross receipts from the sale of food for consumption to qualify as a restaurant. \$2,000 annual license fee.

Kentucky

Restaurant must receive 50 percent or more of its gross annual income from the sale of food and have minimum seating capacity of 50 people at tables. \$300 initial license fee. \$200 annual renewal fee.

Louisiana

The restaurant must gross 60 percent of its average monthly revenue from the sale of food and food items and operate a fully equipped kitchen. \$25 administrative fee.

New Hampshire

At least 50 percent of the gross sales of the business must be in food. Restaurants with annual food sales of at least \$100,000 shall be exempt for the 50 percent requirement. \$480 license fee for restaurants serving beer and wine only. \$840 license fee for full service restaurants serving beverages and liquor. \$1,200 for full service restaurants with a lounge.

Utah

Restaurant liquor license for duration of one year. Each restaurant must maintain at least 70 percent of its total restaurant business from the sale of food. \$300 non-refundable application fee. \$300 annual license fee.

Washington

Food sales must account for at least 30 percent of total food and liquor sales. \$1,200 annual license fee in cities and towns with a population of less than 20,000. \$2,000 annual license fee in cities and towns with a population of more than 20,000.

Exhibit # 13- 1 1/2 "stack
of petitions

The full exhibit is available from:
MT Historical Society Archives
225 North Roberts
P. O. Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775

MAR-04-1997 15:25

TRADERS STATE BANK

SENATE TAXATION

DATE March 11, 1997 .02EXHIBIT NO. 14Bill No. SB 354
Traders State Bank
of Poplar, Montana

Established 1909

P.O. Box 188
Poplar, Montana 59255

March 4, 1997

RE: SENATE BILL 354

DEAR SENATOR HERTEL:

Please consider this letter a statement of our opposition to the above-captioned legislation. The creation of an unlimited number of beer and wine licenses seems to be a dangerous move away from our historical quota system. In Poplar, there are already too many licenses for our economic base. The creation of this new class of licenses could further undermine the already diminished value of those existing licenses. I am also suspicious of this move as part of a process to further alter the full liquor license quota system. That would have enormous impact on many of our customers currently in the on-sale beverage business.

Thank you for your consideration.

Sincerely,

Jeff Ruffatto
President

JJR/fmh



VALLEY BANK OF KALISPELL



February 28, 1997

Mr. Barry Smith
Tiebucksers
PO Box 105
Somers MT 59932-0105

Re: Senate Bill #354
Caberea Bill

Dear Mr. Smith:

During our recent conversation, you were asking our thinking regarding possible consequences of the enactment of Senate Bill #354 termed the Caberea Bill.

Barry, normally commercial banks would not take a position on a bill which may affect individuals who may have opinions on either side of the question. Nevertheless, it does seem we would be remiss if we failed to explain our concerns for customers banking with the Valley Bank who have:

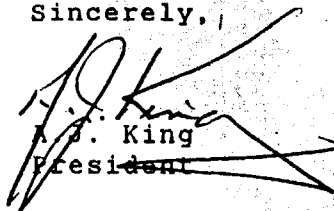
- A. invested in both meal and bar equipment
- B. possibly invested in their building
- C. paid for their operations over the past year or years
- D. purchased an expensive liquor license.

Many of these individuals have required support from their lending institution and many banks are carrying sizable credit lines in their customers behalf.

It would seem a wholesale licensing for the retail sales of beer and wine could seriously affect the volume of business available to existing providers of these services and, therefore, become a threat to their solvency as well as the commercial lenders who have been supporting those businesses.

It would be our hope the legislature would give serious thought for those who have made strong investments in their future and the future of their families in existing restaurant and bar businesses.

Sincerely,



A.J. King
President

AJK:tg

CC: Montana Independent Bankers Association
Power Block Building Suite 5A
7 West Sixth Avenue
Helena MT 59601



FIRST NATIONAL BANK

March 6, 1997

State Senator DePratu
State Capital
P.O. Box 201702
Helena, MT 59620-1702

RE: SENATE BILL 354

Dear Bob:

Passage of the above noted bill will have a negative impact on many financial institutions within the state.

This negative impact will be caused by the devaluation of many current licenses that collateralize outstanding loans within these financial institutions. This devaluation may in fact cause situations where it will become necessary for the financial institution to call all or a significant portion of the existing loan collateralized by these licenses. Obviously in some instances the borrower will be unable to meet this demand and will be forced to liquidate or suffer other adverse financial consequences.

The difficulties caused by this devaluation from issuing more licenses would not at first appear to impact the financial industry but in reality it would have a direct impact on many financial institutions. The more the severe impact on individual institutions the more it will hamper them to provide the necessary financial services to their communities.

The negative impact to our customers (license holders) because of this devaluation in market value of existing licenses should also be considered. It would certainly place them at a disadvantage in competing with new license holders who have invested a minimal amount to compete in this industry.

Based on all of the above factors, I would urge you to vote no on this legislature.

Sincerely,

Douglas S. Johnson
President
First National Bank of Whitefish

Wayne Nelson
3047 Bartonina
Billings, MT 59102

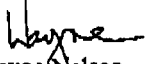
RE: Cabaret License

Dear Senator,

I wish to express my concern regarding cabaret licenses. It would seem that a quick decision to allow cabaret licenses without full consideration of the related effect on existing licenses would be harmful. The quota system created a market value for beverage licenses and the issuance of cabaret licenses would immediately impair their value. Business owners and creditors made significant financial decisions based on this value. In some cases the financial decisions are long term in nature.

I am not sure what the solution is and I understand your struggle. I do know that if you knock the bottom out of the market value of existing beverage licenses many business owners and creditors will suffer financial harm.

Sincerely,


Wayne Nelson

*American Bank
Billings, MT*

**RAVALLI COUNTY BANK
DAVID L. HARDY, V.P.
POST OFFICE BOX 113
HAMILTON, MT. 59840
PHONE (406) 363-1222
FAX (406) 363-5007**

March 7, 1997

Senator Fred Thomas and original to: Senator Steve Benedict
State of Montana
Fax 1(900)225-1600

Dear Fred:

In regards to SB354, the restaurant beer and wine license, I wish to voice my opposition to the passage of this bill. As a banker I have lending interests in a number of the area taverns and I feel that the passage of SB354 can and will adversely affect them. As a member of the Elks Lodge 1651 and the Eagles Lodge in Hamilton, I would also personally register my objection to the passage of this bill, on the same basis.

I believe the bill is unfair in a number of ways, which are as follows:

****Devaluation of currently held licenses which were purchased at much higher market driven prices.**

****Impact on the gross volume of beverage trade done by taverns and restaurants now holding regular all beverage and beer/wine licenses.**

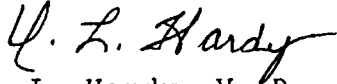
****Potential legal issues, resulting in suits against the State of Montana by current license holders, on the grounds that the State has, in affect, taken property through the direct devaluation of their assets.**

****Literal abandonment of the State's "Quota" system that all existing tavern and restaurant owners have been subject to and have paid the price for, when they purchased their licenses.**

****Possible flooding of the market, with "all beverage" licenses from businesses unloading them to recover whatever they can and repurchasing the cheaper "beer and wine" license.**

Should this bill pass, I have no doubt that the State will become the defendant in a flood of suits and regardless of the outcome it will find itself in a no win situation. There is also no doubt in my mind that passage of SB354 would be patently unjust to the current license holders.

Very truly yours,



D. L. Hardy, V. P.
Ravalli County Bank

cc: Hamilton Elks Lodge
Hamilton Eagles Lodge
Ponderosa Bar
The Aspen Leaf
Rainbow Poker Room
Wild West Club
Corvallis Tavern
Sawmill Saloon
Dotson's Bar & Casino

SENATE BILL 354 CABARET LICENSE

SENATE TAXATION

DATE 7 March 11, 1997

EXHIBIT NO. 15
BILL NO. SB 354

We are the WORKING teen agers of America. Most of us work in Restaurants or other food serving establishments. If they start serving ALCOHOL in those places, thousands of teen agers like us would be out of a job. PLEASE DON'T LET THAT HAPPEN. We are not registered voters yet, but in a few years we not only will be registered voters, some of us may be sitting where you are at. SO PLEASE MAKE OUR OPINIONS COUNT!!!

Please Vote NO to Senate Bill 354

Name	Address
1. Jennifer Hert	3343 Driftwood, Bill.
2. Amanda Sunderland	N/A
3. Paul Poling	N/A
4. [Signature]	N/A
5. [Signature]	
6. Tasha Reenlasseler	N/A
7. Jennifer Halligan	N/A
8. Mariya Kantz	2202 Pine Bill.
9. Alycia Bohannon	1925 Robin Ave.
10. John [Signature]	21 [Signature]
11. [Signature]	[Signature]
12. Melle [Signature]	327 [Signature]
13. [Signature]	[Signature]
14. [Signature]	[Signature]
15. [Signature]	[Signature]
16. Misty Forsythe	2951 Custer
17. Brandon Fenton	624 17th Street West
18. Tracy [Signature]	1270 [Signature]
19. [Signature]	N/A
20. Selma Muffitt	3416 Wasco Avenue
21. Shauna Frierz	1441 N. [Signature] Hills R. Horseshoe

There are eight additional pages.

Diane Guy
Owner-El Comedor Mexican Restaurant
Great Falls, Mt
In business since 1970
Case SB 354

SENATE TAXATION
DATE March 11, 1997
EXHIBIT NO. 16
BILL NO. SB 354

Opened in a building housing a bowling alley already serving alcoholic beverages
Served alcohol with meals
All proceeds given to bar owner 100%

Started planning for our own building in 1977
Applied for a beer and wine license
Told there was only one left under quota and there was another applicant
Other applicant misrepresented having all the necessary requirements
Other applicant awarded remaining license because he was already in business and our building was not complete and ready to open yet
Purchased an existing license for \$14,000--a lot of money in 1977!
Opened current location in March 1978

Obtained all beverage license in trade for beer and wine license last fall (1996)
Would not have been possible to trade up without the increase in value of beer and wine
Done to give an incentive to come into our restaurant over other Mexican restaurants

Added gaming in fall 1996 as a neccesity to pay the bills
Only average \$150 per week net profit, but is \$7800 more than without machines

Cabernet license would spur more restaurants and divide up the available eating out dollars among more businesses, cutting into existing businesses and making it difficult for current restaurants to remain in business
Many more restaurants today than when we opened in 1970
Sales increased steadily through 1990
Casinos spurred growth in number of eating places
More eating places just split up the dining dollar of a stagnant population
Sales have declined \$170,000 or 24% from 1990-1996
Our business has an annual payroll of quarter million dollars which will be lost to the businesses that come and go if we go out of business

It would also make more license available for bars and casinos to proliferate since many current restaurants would sell their licenses and acquire the cabernet license.
I might even be tempted to sell my license and acquire the new license since gaming is an insignificant part of our business.
Interest income would be as great as gaming income

I have worked hard and long hours since I was 14 in the restaurant
I make \$35,000 after 27 years in the same business, declining since 1990
No one contributes to my retirement
My business including the appreciation in value of the liquor license is what I have worked for for 27 years

Please do not make it any harder for Montanans like myself to stay in business

Thank you

3/11/97

Ex _____

SENATE REGISTRATION

DATE 77 March 11, 1997 SB 354

EXHIBIT NO. 17

BILL NO. SB 354

March 9, 1997 Re: Senate Bill 354 "The Cabaret License"

Dear Senator:

While the members of the Cascade County Tavern Association fully appreciate the plight of small restaurant operators attempting to enter the business in today's market, we feel SB 354 falls short of it's intended purpose. I will attempt to be brief here and note highlights of the bill that we expect to create severe problems.

1. Unlimited licensing. To put it bluntly, in today's continually changing culture regarding alcohol, we do not need an unlimited avenue of beer and wine outlets in our State.
2. Expansion of gambling. Those establishments who are borderline gaming operations will have a choice of selling their beer and wine, or even in some cases, their all beverage license, and pick up one of the new "cabaret licenses." We expect a glut of licenses to hit the market, which frankly, one more would be too many, and will most certainly be bought by those who are interested in further promoting casino operations. Again, we do not need to see more casino's in our town!
3. The price of the license. We have members who have played by all the rules established by the State of Montana. They have gone to the bank, or the SBA, or came up with a down payment and signed a contract for deed, mortgaged their homes, got their families to co-sign notes, in other words, did what it takes to get into the business. You can make all the argument in the world for those restaurant operators who just wish to sell beer and wine with a meal, but they are competing with our operators who have paid the price, also in the restaurant business, and have or are paying for a license within the quota system set by the State. We are simply looking for some fairness in this arena.

Comment: We have been studying this problem of high priced licenses for some time. We think we know what should be done to stop some of the problem in the future. /While still quite complicated, we know that SB 354 does not meet the issue. Please vote no pass on SB 354

**MONTANA SENATE
1997 LEGISLATURE
TAXATION COMMITTEE**

ROLL CALL

DATE

March 11, 1997

[illegible]

SEN:1997
wp.rollcall.man
CS-09

NAME Margaret D. Farrell
ADDRESS 955 9th ST. Missoula MT 59802-5717
HOME PHONE 258-6963 WORK PHONE
REPRESENTING myself
APPEARING ON WHICH PROPOSAL? Sen. Bill 354
DO YOU: SUPPORT X OPPOSE AMEND

COMMENTS:

I support this bill because I feel that when I have dinner at a nice restaurant I should be able to order a glass of wine. Small restaurants cannot afford the really obscene prices that beer and wine licenses command today. The only way they can do this is to include gaming machines in their establishments - I do not understand why the gaming license should be connected to a beer and wine license. Somehow we are going to have to correct this injustice. No other license that we buy can be bought and sold. Senate bill 354 provides for a license that would stay at the establishment, in the designated location. Montana needs this bill.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME DENY STABLES

ADDRESS 639 Howell

HOME PHONE 549-6527 WORK PHONE 549-1537

REPRESENTING Red Bird

APPEARING ON WHICH PROPOSAL? SB354

DO YOU: SUPPORT ✓ OPPOSE AMEND

COMMENTS:

In order for a fair market this bill
should be passed the gaming commission
with licensing has inflated the market value
far beyond the actual property values
of the real estate. Persons not wanting
gaming are excluded from being able
to realistically afford a license. Please
consider the small business person

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3 11 97

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 354, SB 372

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
R. J. Reger	Self	354		X
J. R. Reger	Self	354		X
Chuck Anderson	Montana Nugget	354	✓	X
JAMES W. HONAN	SELF	354	✓	
MIXER COTTON	TRI-ALTO -	354		✓
CAROL NELSON	VILLAGE INN	354		✓
Vince Kyle	American Music	354		✓
Kathy Kyle	The Susan's Casino	354		✓
BURR Lively	Melrose Bar	354		✓
Chester Bullock	Silver Saddle	354		✓
Roxie Lee Bullock	Tri County	354		✓
Aigna Koon	MDOR Sig Div	354	—	—
John W. Winters	Self	354	✓	
James The Centennial Inn		354	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 372, SB 354

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
RR Dixon	The Rose Kauspel	354		X
Lake Lincoln	Dele Somers	354		X
BJ Holmes	GOLD BAR-IRLENA	354		X
Donna Mohan	J. Bar Goliet	354		X
Tippy Burch	The Den Cut Bank	354		X
Patti Warburton	Pizza Depot Shelby	354		X
Jim Pellett	MT Club Shelby	354		X
Jan Curran	Butter Camp near	354		X
Ellen Engstent	Chlorine Park			
Ellen Engstent	NGWTF	354	✓	
Betsy Barnhart		354	✓	
BA Brockmeyer	The People	354	✓	
Bamani Mohan	Teenager under 18	354		X
Bob Stevens	Self	354	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON SB 354, SB 372

BILLS BEING HEARD TODAY: Taxation

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
John Shantz	MT Assoc. REALTORS	354	X	
Robert Leach	Billings Assoc. of Realtors	354	X	
Tim Ryan	GALT HOUSE CITY COUN	354	X	
Harold Dranstad Brenda Nordlund	Self - 1821 Postn	354	X	
Alan Beck	Self * Brewhouse Inc.	354		X
KATHARINE A. BROWN	Self	354	X	
LUM LEE	JADE GARDEN	354	X	
SUSAN LEE	JADE GARDEN	354	X	
DAVE BROWN	MT. Independent Machine Spinning Assn	354		X
Sherrell Jones	Missoula County Tavern Owners	354		X
Thane Kniel	Missoula County Tavern Owners	354		X
CAL McOMBER	CORVALLIS TAVERN	354		X
Carl Solvig	Brewage Inn	354		X
Fred Kewer	Orange Inn PIZZA MISSOUL	354		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 372, SB 354

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Lynn M Seelye	Sailboat SB	354		✓
Dan Clark	Rose's Cantina SB	354		✓
John Gordon	Omega SB	354		✓
Arnell A Keek	UJA	✓		✓
CAROL CASSIE	Mama Casares Restaurant	354	✓	
John Toenges	Elmer's Pantry & Sticks	354	✓	
Bill Lincoln	BL STEAKHOUSE Two	354		X
Barry Smith	Techniques Pub	354		X
Gary R. Nilsenbrand	Short Branch Lounge	354		X
Jon Toivson	Cascade Co. Trav. Assoc	354		X
Dan Skiles	Loose Change KAC	354		X
Russ Duhon	1126 12th Ave	354		X
John Moen	Mint Box Saloon	354		✓
Curtis Riemann	Curtis Saloon	354		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 372, SB 354

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Gene Burgard	The Rex	354		X
Ted Day	Red hodge hounge	354		X
Doris Day	Red hodge hounge	354		X
Paula Dies	Stockmans - Lewisburg	354		X
Sally O. Stevens	Western Hounghurst	354		X
John Caracci	Christians Rest	354	X	
Sandra K. Amberg	Budgen Cafe	354		X
Jay Bennett	Budgen Cafe	354		X
ALAN R. Ruby	ALAN Ruby	354	✓	
CHRISTINE STAGGS	Red Bird	354	X	
Jim Clubbs	MAIN ST. CASINO	354		X
G. L. ANDERSON	VFW KALISPELL	354		X
DENY STABLES	Red Bird	354	X	
Margaret D. Farrell	Self	354	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON Tax

BILLS BEING HEARD TODAY: SB 354, SB 372

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Jerry Orsiol	mountain industry Machine Operator Assoc	SB 354		X
Nancy J. Bennett	Bridges Cafe & Casino	SB 354		X
Melody Meyer	Bridges Cafe & Casino	SB 354		X
Bobbie M. Hays	Bridges Cafe & Casino	SB 354		X
Mike McNamara	TRI-EAST INC/ROWDY'S	SB 354		✓
Blair Frank	Shawthorne	SB 354		✓
HAROLD FRASER	FIRST SECURITY BANK MSB	SB 354		✓
JOHN HAYS	CCTA	SB 354		✓
Bruce D. Warrick	FLY BARNICOOT	SB 354	✓	
Bill HANDS	TRAPPERS FAM REST	SB 354		✓
DEBORAH HANDS	TRAPPERS FAMILY REST	SB 354		✓
James G. Johnson	Self/Mt. State Eagles	SB 354		X
Margaret D. Farrell	Self	SB 354	✓	
John Kays	Cut Bank TAVARER ASSS	SB 354		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97
 SENATE COMMITTEE ON Taxation
 BILLS BEING HEARD TODAY: SB 354, SB 372

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Lauree Kautsk	Christian Community MT	9854		✓
Melita Rindash	Eagle Forum	"		✓
CLARE O' MALLEY GOULD	O' MALLEY'S, C.F.	"		✓
Ernie Grosseschi	BORRIE'S	"		✓
Debbie Thomas	BORRIE'S	"		✓
Andy Thomas	BORRIE'S			✓
SARAH HEROLD	CAPITAL CITY BOWL - HELENA	354		✓
ROBERT C. BOWERS	VFW - MAXVILLE	354		✓
Mike Casey	Helena BID	354	X	
Paul Amickson	MORNING LIGHT	354	✓	
Margaret Bauw	VFW MAXVILLE	354		✓
STEVE E. RANDOLPH	EMILIOS	354	✓	
TOM OLSEN	BECK	354	✓	
STEPHEN TANG	JADE GARDEN	354	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97SENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: SB 354, SB 372

< ■ >

PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Alfred Schmitt	Village Dining Room	354		X
Gen. W. L. Linscomb	Cattlemen	354		X
AM Hellwig-Jankel	VFW Kalspell	354		X
Helen M. Kuhl	The Rose Kalspell	354		X
HARRY W. KLOCK	STOCKMAN BAR HARLOWTON	354		X
Fred Weiner	Fred's Mesquite Grill	354	X	
MO MOHAN	Co J-Bar, Tollet	354		X
Laura Shaddon	The Baxter	354		X
Cecil Lumborg	Cecil's Pub	354		X
STEVE MORRIS	Fat Boy & CHARLIE'S			X
Betty Smiley	Chrome Bar Cherokee	354		X
Lynn Curran	Cotton Camp	"		X
Sharon Kurbien	Chrome Bar Cherokee	"		X
David A. Smith	ELMER'S PINEAPPLES	354	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON SB Legislation

BILLS BEING HEARD TODAY: SB 354, SB 372

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Check One

Name	Representing	Bill No.	Support	Oppose
Bob Fletcher	Canner, Boz	354		✓
Lowell L. Bartels	McDonald's	354	✓	
MIXG CECILIAZO	VILLAMIN PITA	354		✓
Diane Guy	El Comedor	354		✓
Ralph A. Ferraro	R	354		✓
Bill MacIntyre	PUG MATHON'S	354		✓
Barbara Morris	Jorgensen's Restaurant	354		✓
Orville Johnson	Yacht Basin	354		✓
YVONNE K. JOHNSON	YACHT BASIN ^{BAR} _{REST}	354		✓
Robyn Hampton	The Brewhouse	354		✓
Marilyn Connor	Woodpeckers	354		✓
Craig Hampton	The Brewhouse	354		✓
Kevin Connor	Wood Peckers	354		✓
Diana Kenny	MT Bar	354		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 354, SB 372

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Bonnie Andrew	Jorgenson's Rest	354		✓
LEONARD ECKEL	Citizen-Small Business	354	✓	
CONCETTA MARIE ECKEL	CITIZEN-HELEN	354	✓	
EDWARD K. TAM	JADE PALACE	354	✓	
LAURA J. FIX	The River Grille	354		✓
Kenl Fruyhaer	Best Bel	354		✓
Michael Munsey	The Depot	354		✓
Bill Lindsey	Little Chicago Club	354		✓
Vicki Seelye	Citizen	354		✓
KC LA FLESH	MARVINS	354		✓
Brad Watson	City Bar	354		✓
Vonda George	Little Chicago Club	354		✓
DEVIN WHITE	CORRAL BAR	354		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON Education

BILLS BEING HEARD TODAY: SB 354, SB 372

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Check One

Name	Representing	Bill No.	Support	Oppose
BRIM COTE	Coyotes Ford/Guard	354		X
John H. Greenwood	Frenchtown Club	354		X
Joe Chelheard	DAN'S CASINO	354		X
Bruce Fowler	Murphy Salley Halls	354		X
Bea Caraccio/lo	Christina's Restaurant	354	✓	
LARRY AKEY	MT COIN MACHINE OPS	354		✓
Bill Watson	City Bar Street Ralls	354		
Gordon Morris	MACU	372	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-11-97

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 354, SB 372

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Check One

Name	Representing	Bill No.	Support	Oppose
<i>John Miller</i>	<i>Miller's Crossing</i>	<i>354</i>		<i>X</i>
<i>Pat Cantuigh</i>	<i>self</i>	<i>354</i>	<i>X</i>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & LABOR

Call to Order: By CHAIRMAN PAUL SLITER, on March 7, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: Rep. Simon and Rep. Ewer

Members Absent:

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 104; SB 88; HB 249
(2/19/97)
Executive Action: SB 104

HEARING ON

Opening Statement by Sponsor: Senator M. Waterman, S. D. 26,
introduced SB 354. EXHIBIT 1 AND 2.

{Tape: 1; Side: 1; Approx. Time Count: 3.2; Comments: None.}

Proponents' Testimony:

Christine Staggs, Missoula, MT

{Tape: 1; Side: 1; Approx. Time Count: 12.2; Comments: None.}

Mary Carlos, Whitefish, MT.

{Tape: 1; Side: 1; Approx. Time Count: 13.8; Comments: None.}

Leonard Echols, Helena, MT

{Tape: 1; Side: 1; Approx. Time Count: 14.8; Comments: None.}

John Shontz, MT Assn. of Realtors

{Tape: 1; Side: 1; Approx. Time Count: 15.9; Comments: None.}

Brian Conn, Helena, MT

{Tape: 1; Side: 1; Approx. Time Count: 16.6; Comments: None.}

Alicia Russell, Jade Garden, Helena, MT, EXHIBIT 3.

{Tape: 1; Side: 1; Approx. Time Count: 18.1; Comments: None}

Paul Carbine, Helena, MT

{Tape: 1; Side: 1; Approx. Time Count: 18.9; Comments: None.}

Patrick Corliss, Whitefish, MT

{Tape: 1; Side: 1; Approx. Time Count: 19.3; Comments: None.}

Bob Stevens, Bozeman, MT

{Tape: 1; Side: 1; Approx. Time Count: 21.1; Comments: None.}

Bob Kiesling, Helena Restaurant Owner

{Tape: 1; Side: 1; Approx. Time Count: 27.3; Comments: None.}

Rick Miller, Missoula County Tavern Assn

{Tape: 1; Side: 1; Approx. Time Count: 28.4; Comments: None.}

Darrel Keck, Shelby, MT Tavern Owner

{Tape: 1; Side: 1; Approx. Time Count: 28.8; Comments: None.}

Mark Staples, Montana Tavern Assn. EXHIBIT 4.

{Tape: 1; Side: 1; Approx. Time Count: 30.7; Comments: None.}

Tom Hopgood, MT Beer and Wine Wholesalers Assn.

{Tape: 1; Side: 1; Approx. Time Count: 37.0; Comments: None.}

Dave Brown, MT Independent Machine Operators

{Tape: 1; Side: 1; Approx. Time Count: 37.6; Comments: None.}

Melissa Case, Hotel and Restaurant Employees Union. EXHIBIT 5 AND 6.

{Tape: 1; Side: 1; Approx. Time Count: 38.4; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses:

{Tape: 1; Side: 1; Approx. Time Count: 40.3; Comments: None.}

Closing by Sponsor: Senator Waterman closed. Rep. Hibbard to carry.

{Tape: 1; Side: 2; Approx. Time Count: 35.8; Comments: None.}

EXECUTIVE ACTION ON SB 354

Motion: Rep. Tropila moved do concur SB 354.

{Tape: 1; Side: 2; Approx. Time Count: 43.7; Comments: None.}

Motion/Vote: Rep. Squires moved to adopt Waterman amendments. Motion carried unanimously.

{Tape: 1; Side: 2; Approx. Time Count: 44.0; Comments: None.}

Motion/Vote: Rep. Tropila moved do concur as amended SB 354.

{Tape: 2; Side: 1; Approx. Time Count: .4; Comments: None.}

Discussion:

{Tape: 2; Side: 1; Approx. Time Count: 1.2; Comments: None.}

Vote: Motion carried 15-4. Reps. Prouse, Devaney, Barnett and Trexler voted no.

{Tape: 2; Side: 1; Approx. Time Count: 8.1; Comments: None.}

HEARING ON SB 396

Opening Statement by Sponsor: Senator Mike Foster, S. D. 20, introduced the bill. EXHIBIT 7.

{Tape: 2; Side: 1; Approx. Time Count: 8.3; Comments: None.}

Proponents' Testimony:

Perry Cole, Montana Power Co. EXHIBIT 8 AND 9.

{Tape: 2; Side: 1; Approx. Time Count: 16.3; Comments: None.}

John Alkey, Montana Dakota Utilities

{Tape: 2; Side: 1; Approx. Time Count: 21.6; Comments: None.}

Nancy McCaffree, Public Service Commission. EXHIBIT 10.

{Tape: 2; Side: 1; Approx. Time Count: 23.7; Comments: None.}

Sheila Rice, Great Falls Gas Co. EXHIBIT 11.

{Tape: 2; Side: 1; Approx. Time Count: 25.3; Comments: None.}

EXHIBIT 1
DATE 4/7/97
SB 354

MAJOR COMPONENTS OF SB 354

- * CREATES NEW CATEGORY OF BEER/WINE LICENSES FOR RESTAURANTS WHERE AT LEAST 75% OF GROSS ANNUAL SALES COMES FROM FOOD
- * DOES NOT ALLOW GAMBLING IN ESTABLISHMENT
- * LICENSE CANNOT BE SOLD

MAJOR AMENDMENTS TO SB 354

* COST OF LICENSES:

Seating capacity under 60 -- \$5,000
Seating capacity 61-100 -- \$10,000
Seating capacity 101-up -- \$20,000 -- can be no more
than 25% of restaurant beer/wine licenses in the quota area

* ANNUAL RENEWAL: \$400

* QUOTA -- PERCENT BASED ON NUMBER OF CURRENT BEER/WINE LICENSES:

Communities with population over 60,000 -- 40%
Communities with population 20,000-60,000 -- 50%
Communities with population under 20,000 -- 60%
Resort Communities -- 100%

Selection of Licensees Determined by Lottery

- * ALCOHOL CAN ONLY BE SERVED BETWEEN 11:00 a.m. AND 11:00 p.m.
- * SERVICE BAR ONLY
- * BEER/WINE CHARGE MUST GO ON A FOOD BILL
- * A RESTAURANT WITH AN EXISTING RETAIL LICENSE FOR THE SALE OF BEER, WINE OR ANY OTHER ALCOHOLIC BEVERAGE MAY NOT BE CONSIDERED FOR A RESTAURANT BEER AND WINE LICENSE AT THE SAME LOCATION
- * PREFERENCE FOR RESTAURANTS IN BUSINESS AT LEAST 12 MONTHS

TESTIMONY ON SB354, RESTAURANT BEER AND WINE LICENSE

Submitted by Paul Cartwright, 3-10-97

Restaurant beer and wine licenses will pay far more to the treasury than any other class of license.

Application fee for beer and wine licenses (one-time only):	\$0 (plus \$400 annual fee)
Proposed fee for restaurant beer and wine licenses (each time the restaurant is sold):	\$1,000 (plus \$300 annual fee)
Market value of beer licenses in major cities:	\$100,000-200,000 (reportedly)
Amount of this paid to the state treasury when licenses are sold:	\$0
Original license fee for new all-beverage licenses,	
Cities over 10,000:	\$20,000
All other areas:	\$0

Offering gambling still appears to have financial advantages.

State-wide video machine annual gross income (after payout of winnings)		
	1994	\$200,300,000
	1995	\$208,073,000
	1996	\$213,565,000
Percentage of locations grossing \$25,000 or more:		70%
Percentage of locations grossing \$10,000 or more:		88%
Percentage of all locations with machines that have 6 or more machines:		66.8%
Percentage of beer/wine licences with gambling that have 6 or more video machines:		70%
Average annual gross income of small establishments with 3 video machines (1996):		\$17,000

(over)

LEONARD B. & CONCETTA MARIE ECKEL
19 ROCKY MOUNTAIN DRIVE • CLANCY, MONTANA 59634 • 406-933-8300

3/11/97
SB 354

March 11, 1997

Senator Gerry Devlin
Senate Taxation Committee

Reference: Senate Bill 354

Dear Mr. Devlin

While Senate bill 354 presents many positive benefits for those of us who enjoy dining out and having a good glass of wine with our meal, the discussion should really center around what we believe is the the most compelling issue here: what best serves the interest of the citizens of Montana? We would ask for the support of this bill by the Montana Legislature for the following reasons:

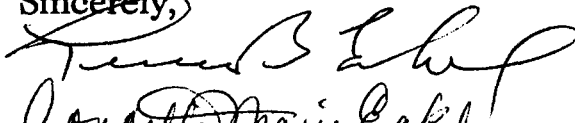
1. The existing license structure neither benefits the state or communities through the escalation of current license values. It also limits the opportunity for success of small business who want to enter the restaurant business. Resort communities, and communities with growing populations are virtually shut off from new restaurant opportunities.

2. This bill would provide an opportunity for our citizens who choose to take the risk to enter the restaurant business by allowing them to serve beer and wine and letting the free enterprise system determine who will succeed or fail based on product and service, not limits on competition.

3. Unlike when this system was instigated, there are enough hurdles to entering and maintaining a successful business already in place to assure "control" over these new entrepreneurs. Rules, regulations and health inspections are adequate control!

Please give this bill your committee's positive recommendation for the benefit of our state's economy and citizens' choice in the marketplace.

Sincerely,


Concetta Marie Eckel
Leonard B. Eckel

Concetta Marie Eckel

Small business owners

LEONARD B. & CONCETTA MARIE ECKEL
♦ 19 ROCKY MOUNTAIN DRIVE • CLANCY, MONTANA 59634 ♦ 406-933-8300

3/11/97
SB 354

March 11, 1997

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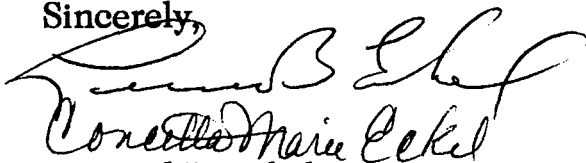
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Please give this bill your committee's positive recommendation for the benefit of our state's economy and citizens' choice in the marketplace.

Sincerely,



Leonard B. Eckel

Concetta Marie Eckel

Small business owners

Petition of Support

for

Wine and Beer Without Gaming in Restaurants

"an act establishing a restaurant beer and wine license to allow restaurants to serve beer and wine; prohibiting a restaurant beer and wine licensee from holding any other type of beer, wine, or liquor license; exempting restaurant beer and wine licenses from the quota system; providing that restaurant beer and wine licenses are nontransferable; prohibiting gaming and gambling in conjunction with any license to sell alcoholic beverages for ;the consumption on premises not originally licensed prior to the effective date of proposed legislation....."

Name	City	Date
Bob Pauley	Ham	3-5-97
Conita Morris	Ham	3-6-97
Debi Meredith	LA	3-6-97
Jim Horky	Ham	3-7-97
Steve Zick	Ham	3-7-97
Karen West	La	3-7-97
Judy Martin	Vienna	3-7-97
Conita Szegoniak	Lincoln	3-5-97
Robert Leape	Hamilton	3-6-97
Robert Williams	Hamilton	3-6-97
Michael Nash	Hamilton	3-7-97
Challen J. Patrick	Deer	3-7-97
Robert G. Richard	Hamilton	3/7/97
Amel El-Samir	Hamilton	3/7/97
Sue Chochler	Hamilton	3/7/97
JIM CHANDLER	HAMILTON	3/7/97
John Van der Meer	Corvallis	3/7/97
Steve Belonging	Hamilton	3/7/97
Betty Chasick	Corvallis	3/7/97

Exhibit # 2 (Petitions)

SB 354

The full exhibit is available from:

MT Historical Society Archives

225 North Roberts

P.O. Box 201201

Helena, MT 59620-1201

Phone # (406)444-4774

801-4577

EXHIBIT 3
DATE 4/7/97
SB 354

Exhibit # 3

SB 354 (More Petitions)

The full exhibit is available from:

MT Historical Society Archives

225 North Roberts

P.O. Box 201201

Helena, MT 59620-1201

Phone # (406)444-4774

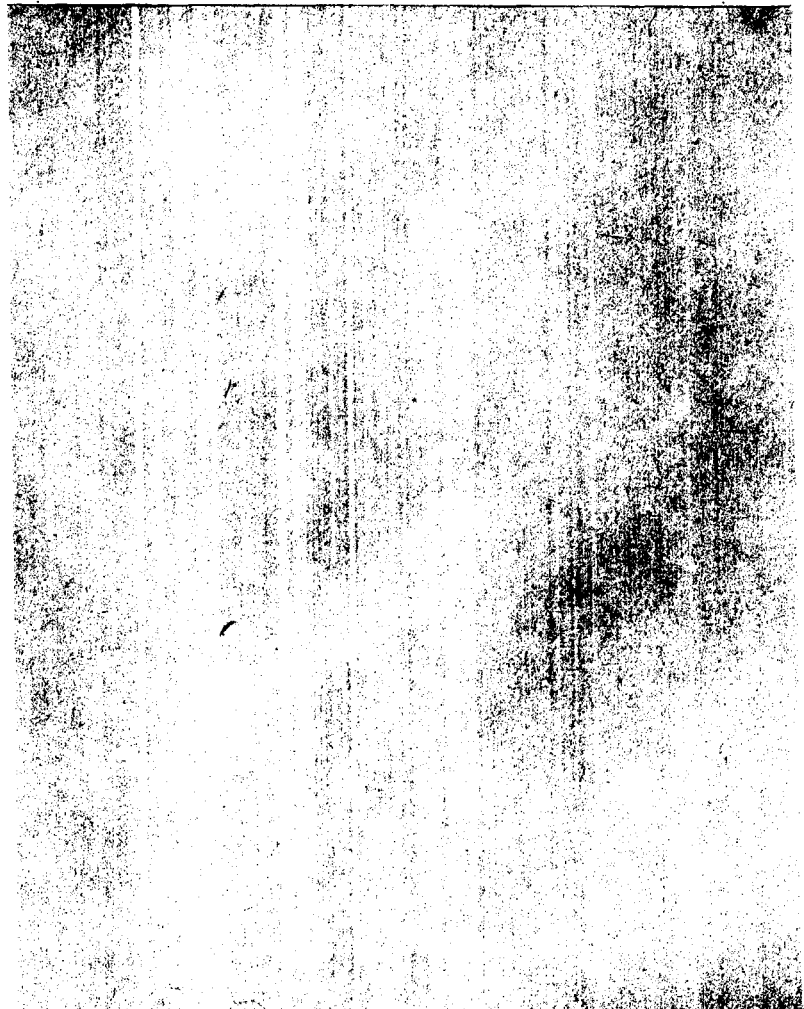


EXHIBIT 4
DATE 7/7/97
SB 354
April 7, 1997

FACT (AND BACKGROUND) SHEET
IN SUPPORT OF SB 354, AS AMENDED

~ Presented by the Montana Tavern Association ~
before the HOUSE BUSINESS and LABOR COMMITTEE

INTRODUCTION

MTA supports SB 354 if it stays intact as now amended. Any further amending or deletion of provisions may leave MTA no choice but to oppose the Bill. WE URGE YOUR SUPPORT OF THE BILL AS IS.

1. MTA SUPPORTS THE FEE STRUCTURE FOR THE LICENSES.

The amendments regarding this area, which have been agreed to, are the following:

- A. For restaurants with seating for 60 or less, the charge is \$5000, one-time.
- B. For restaurants with seating for 60 to 100, the fee is \$10,000, one-time.
- C. For restaurants with seating for 100, the fee is \$20,000, one-time.
- D. If any establishment licensed under this act increases its seating so as to take itself into the next higher category, it must pay the difference in the licensing fees.
- E. Each shall pay a yearly renewal fee of \$400.

RATIONALE:

The charge for these licenses must be enough to ensure that those who are granted these licenses are serious about undertaking the responsibility of alcohol distribution, while also eliminating from consideration those who would simply dabble in the bar business for however short a time with really nothing to lose (as may have been the case with a thousand dollar license).

2. MTA SUPPORTS THE AGREED-UPON NUMERICAL PARAMETERS FOR ISSUANCE OF THESE LICENSES:
- A. In cities of 60,000 persons or more, a number of these new licenses up to 40% of the current beer and wine quota for that city.
 - B. In cities from 20,000 to 60,000, a number of these licenses up to 50% of the current beer and wine quota in that city.
 - C. In cities of 20,000 or less, issuance of these new licenses in numbers up to 60% of the current beer and wine quota in that city.
 - D. In true "resort communities" as designated by the Montana Department of Commerce, issuance of up to 100% of the current beer and wine quota in that city.

RATIONALE:

Negative ramifications of a lack of limits:

- 1. Lead to an unintended proliferation of alcohol outlets, and
 - 2. Contribute to the syndrome wherein current non-gaming beer and wine licenses would be dumped on the market, devaluing current licenses and leading most probably to many more gaming establishments.
 - 3. This is the formula our neighbor Wyoming uses (a percentage of current quotas, that is).
 - 4. An unlimited number of these licenses could destroy the legal foundation for the current quota system (which we believe Montana is not equipped financially to dismantle).
3. MTA SUPPORTS THE CONSENSUS STEPS WHICH HAVE BEEN TAKEN IN THE BILL AS AMENDED TO DISCOURAGE THE PHENOMENA OF "DUMPING" CURRENT BEER AND WINE LICENSES WITH GAMING ONTO THE MARKET TO ACQUIRE THESE CONSIDERABLY LESS EXPENSIVE ONES.
- A. The issuance of these licenses, as noted elsewhere, is limited numerically in relationship to the current beer and wine quota.
 - B. Further issuance of any beer and wine licenses *with* gambling will be prohibited in all quota areas except true "resort communities" which can have new issuance when population increases. (Over time, this prohibition may arguably help to reclaim the value the current licenses will initially lose, so as to make their owners less likely to "dump" them on the market.)
 - C. *First preference* shall be given to bonafide full-service restaurants which have been in business at least a year at the time the new licenses are issued
 - D. The current owner of an alcohol license at a location may not apply for one of these new licenses to be used at that location while he/she still owns the current license.

- E. All applicants who are not qualified under the preference will be put into a lottery to determine by drawing who will acquire the remaining new issuances. **THUS, THE CURRENT HOLDER OF AN ALCOHOL LICENSE MUST SELL HIS/HER CURRENT LICENSE TO TAKE THE CHANCE OF GETTING ONE OF THESE AT THE SAME LOCATION.**
- 4. **MTA SUPPORTS THE AGREED UPON AMENDMENTS DESIGNED TO ENSURE ENFORCEMENT OF THE CONDITIONS OF THIS ACT.**
 - A. These licenses are subject to all the same prohibitions as other alcohol licenses in Montana (i.e., 21 year old drinking age, open container, etc.).
 - B. Licenses will be subject to the same penalties, revocations, and forfeitures for violations as current licensees are, including the loss of license for non-use.
 - C. Like current licensees, an owner of one of these new licenses may not apply for another if he/she loses one by lapse or revocation.
 - D. Funds will be provided from fees to give the relevant agencies resources necessary to enforce the laws and rules.
- 5. **MTA SUPPORTS THAT THE SERVICES OFFERED BY THESE ESTABLISHMENTS ARE MODIFIED**
 - A. No gambling, beer and wine only.
 - B. Service bar, rather than full bar service .
 - C. Non-transferrable with the exception that the license is allowed to transfer at the same location to a new owner.
 - D. Beer and/or wine to be served with meals. At least 75% of the gross proceeds for the establishment from food and this attested upon yearly renewal.
 - E. The establishment must offer full-service evening dining, (although alcohol can also be served with lunch, and in fact, with any meal between 11:00 a.m. and 11:00 p.m.).

RATIONALE:

Given the amount of investment current license holders have made, versus what these licenses will cost, it is reasonable to have distinguishing features between current licenses and these new licenses. The above distinctions are reasonable, fair, and typical of "restaurant" alcohol licenses in other states, giving proponent Montana restaurants the ability to serve - and proponent consumers the ability to purchase - "beer or wine with meals" in establishments where they previously could not.

Exhibit # ~~2, 3, 4, 5, 6~~ 5, 6
SB 354 (Petitions)

The full exhibit is available from:

MT Historical Society Archives

225 North Roberts

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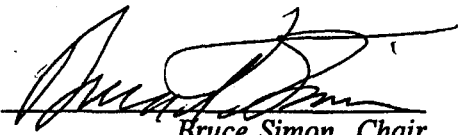
HOUSE STANDING COMMITTEE REPORT

April 7, 1997

Page 1 of 1

Mr. Speaker: We, the committee on Business and Labor report that Senate Bill 354 (third reading copy -- blue) be concurred in as amended.

Signed:


Bruce Simon, Chair

And, that such amendments read:

Carried by: Rep. Hibbard

1. Page 3, line 27.

Strike: "(10)"

Insert: "(11)"

-END-

Committee Vote:
Yes 19, No 0.

731237SC.Hgd


4-7-97

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL

DATE 4/7/97

NAME	PRESENT	ABSENT	EXCUSED
Bruce Simon, Chairman	✓		
Paul Sliter Vice Chairman	✓		
Bob Pavlovich, Vice Chairman	✓		
Joe Barnett	✓		
Rod Bitney			X
Sylvia Bookout	✓		
Charles Devaney	✓		
David Ewer			X
Kim Gillan	✓		
Billie Krenzler	✓		
Bob Lawson	✓		
Rod Marshall	✓		
Gay Ann Masolo	✓		
Wes Prouse	✓		
Carolyn Squires	✓		
Jay Stovall	✓		
Cliff Trexler	✓		
Joe Tropila	✓		
Carley Tuss	✓		

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

SUB-COMMITTEE

DATE

BILL NO. 503-354

SPONSOR(S) W. Norman

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
DAVE BROWN	Madison Independent Machinists Assn	AS Amended	
Bill Lincoln	B.L. STEAKHOUSE INC	X as amended	
Alicia Russell	JADE GARDEN	X	
LUM LEE	JADE GARDEN	X	
Diana Koon	MDOR	—	—
Niuce Kyle	AMC	X	
BOB KIESLING	SELF	X	
Chapman Brooks	B/g & Chinn bar	X	
STEVE MORRIS	River Grille	X	
Constance Marie Eckel	Consumer	X	
Leonard Eckel	Self	X	
Barbara Morris	Jorgensen's Restaurant & Lounge	as amended	
J. Shatz	mt Dan Bar	X	
Bob Stevens	self	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Maissa Case

Area Employs 5 Post X
Employ. Union (HERE)

**HOUSE OF REPRESENTATIVES
VISITORS REGISTER**

SUB-COMMITTEE

DATE

BILL NO. 354 SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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SENATE BILL NO. 354

INTRODUCED BY WATERMAN, MARSHALL, ECK, HIBBARD, EWER, MESAROS, GROSFIELD, TASH,
HALLIGAN, BOHLINGER, BARTLETT, SANDS, SWYSGOOD, SWANSON, BARNHART, SMITH,
SIMPKINS, AHNER, M. TAYLOR, BURNETT, WYATT, L. TAYLOR, ROSE, SCHMIDT, J. JOHNSON,
CRIPPEN, TOEWS, CAREY, COBB, REHBEIN, REAM, STOVALL, JABS, MILLER, R. JOHNSON, SHEA,
ELLINGSON, FOSTER, BECK, DEPRATU, GRIMES

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A RESTAURANT BEER AND WINE LICENSE TO
ALLOW RESTAURANTS TO SERVE BEER AND WINE TO PATRONS WHO PURCHASE FOOD; PROHIBITING
A RESTAURANT BEER AND WINE LICENSEE FROM HOLDING ANY OTHER TYPE OF BEER, WINE, OR
LIQUOR LICENSE; ~~EXEMPTING~~ BASING THE ISSUANCE OF RESTAURANT BEER AND WINE LICENSES
~~FROM ON~~ THE QUOTA SYSTEM; LIMITING THE NUMBER OF LICENSES THAT MAY BE ISSUED TO
RESTAURANTS WITH A SEATING CAPACITY OF 101 PERSONS OR MORE; PROVIDING THAT CERTAIN
LICENSES BE ISSUED BY LOTTERY; PROVIDING THAT RESTAURANT BEER AND WINE LICENSES ARE
~~NONTRANSFERABLE~~ TRANSFERABLE UNDER CERTAIN CONDITIONS; PROHIBITING GAMING AND
GAMBLING IN CONJUNCTION WITH A LICENSE, OTHER THAN AN ALL-BEVERAGES LICENSE OR A BEER
AND WINE LICENSE ISSUED OUTSIDE OF A CITY OR TOWN, TO SELL ALCOHOLIC BEVERAGES FOR
CONSUMPTION ON PREMISES NOT ORIGINALLY LICENSED PRIOR TO THE EFFECTIVE DATE OF SECTION
6 OF THIS ACT; AND AND AMENDING SECTIONS 16-4-105, 16-4-111, 23-5-306, 23-5-502, 23-5-603,
AND 23-5-611, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Restaurant beer and wine license.** (1) The department shall issue a
restaurant beer and wine license TO AN APPLICANT whenever THE DEPARTMENT DETERMINES THAT THE
APPLICANT, IN ADDITION TO SATISFYING THE REQUIREMENTS OF THIS SECTION, MEETS THE
FOLLOWING QUALIFICATIONS AND CONDITIONS:

- (a) ~~the applicant is otherwise qualified to possess a beer and wine license~~ IN THE CASE OF AN
INDIVIDUAL APPLICANT:
 - (i) THE APPLICANT'S PAST RECORD AND PRESENT STATUS AS A PURVEYOR OF ALCOHOLIC

1 BEVERAGES AND AS A BUSINESS PERSON AND CITIZEN DEMONSTRATE THAT THE APPLICANT IS
2 LIKELY TO OPERATE THE ESTABLISHMENT IN COMPLIANCE WITH ALL APPLICABLE LAWS OF THE
3 STATE AND LOCAL GOVERNMENTS; AND

4 (II) THE APPLICANT IS NOT UNDER 19 YEARS OF AGE;

5 (B) IN THE CASE OF A CORPORATE APPLICANT:

6 (I) IN THE CASE OF A CORPORATION LISTED ON A NATIONAL STOCK EXCHANGE, THE
7 CORPORATE OFFICERS AND THE BOARD OF DIRECTORS MUST MEET THE REQUIREMENTS OF
8 SUBSECTION (1)(A);

9 (II) IN THE CASE OF A CORPORATION NOT LISTED ON A NATIONAL STOCK EXCHANGE, EACH
10 OWNER OF 10% OR MORE OF THE OUTSTANDING STOCK MUST MEET THE REQUIREMENTS FOR AN
11 INDIVIDUAL LISTED IN SUBSECTION (1)(A); AND

12 (III) THE CORPORATION IS AUTHORIZED TO DO BUSINESS IN MONTANA;

13 (C) IN THE CASE OF ANY OTHER BUSINESS ENTITY, INCLUDING BUT NOT LIMITED TO
14 PARTNERSHIPS INCLUDING LIMITED LIABILITY PARTNERSHIPS, LIMITED PARTNERSHIPS, AND LIMITED
15 LIABILITY COMPANIES, BUT NOT INCLUDING ANY FORM OF A TRUST:

16 (I) IF THE APPLICANT CONSISTS OF MORE THAN ONE INDIVIDUAL, ALL INDIVIDUALS MUST
17 MEET THE REQUIREMENTS OF SUBSECTION (1)(A); AND

18 (II) IF THE APPLICANT CONSISTS OF MORE THAN ONE CORPORATION, ALL CORPORATIONS
19 LISTED ON A NATIONAL STOCK EXCHANGE MUST MEET THE REQUIREMENTS OF SUBSECTION (1)(B)(I)
20 AND CORPORATIONS NOT LISTED ON A NATIONAL STOCK EXCHANGE MUST MEET THE
21 REQUIREMENTS OF SUBSECTION (1)(B)(II);

22 ~~(b)(D)~~ the applicant operates a restaurant at the location where the restaurant beer and wine license
23 will be used or satisfies the department:

24 (i) that the applicant intends to open a restaurant that will meet the requirements of subsection
25 ~~(2)(6)~~ and intends to operate the restaurant so that at least 75% of the restaurant's gross income during
26 its first year of operation is expected to be the result of the sale of food; and

27 (ii) that the restaurant beer and wine license will be used in conjunction with that restaurant, THAT
28 THE RESTAURANT WILL SERVE ONLY BEER AND WINE ONLY TO A PATRON WHO ORDERS FOOD, AND
29 THAT BEER AND WINE PURCHASES WILL BE STATED ON THE FOOD BILL; AND

30 (III) THAT THE RESTAURANT WILL SERVE BEER AND WINE FROM A SERVICE BAR, AS SERVICE

1 BAR IS DEFINED BY THE DEPARTMENT BY RULE;

2 ~~(e)(E)~~ the applicant understands AND ACKNOWLEDGES IN WRITING ON THE APPLICATION that
3 this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or
4 operate any gambling machines and that if any gaming or gambling activity or machine exists at the location
5 where the restaurant beer and wine license will be used, the activity must be discontinued or the machines
6 must be removed before the restaurant beer and wine license takes effect; AND

7 ~~(d) the owner of an existing all beverages, beer, wine, or beer and wine license agrees to sell any~~
8 ~~existing license before the restaurant beer and wine license takes effect; and~~

9 ~~(e)(F) the applicant does not hold any other retail license for the sale of beer, wine, or any other~~
10 ~~alcoholic beverages~~ THE APPLICANT STATES THE PLANNED SEATING CAPACITY OF THE RESTAURANT,
11 IF IT IS TO BE BUILT, OR THE CURRENT SEATING CAPACITY IF THE RESTAURANT IS OPERATING.

12 (2) A RESTAURANT THAT HAS AN EXISTING RETAIL LICENSE FOR THE SALE OF BEER, WINE,
13 OR ANY OTHER ALCOHOLIC BEVERAGE MAY NOT BE CONSIDERED FOR A RESTAURANT BEER AND
14 WINE LICENSE AT THE SAME LOCATION.

15 (3) (A) A COMPLETED APPLICATION FOR A LICENSE UNDER THIS SECTION AND THE
16 APPROPRIATE APPLICATION FEE, AS PROVIDED IN SUBSECTION (11), MUST BE SUBMITTED TO THE
17 DEPARTMENT. THE DEPARTMENT SHALL REQUEST THAT THE DEPARTMENT OF JUSTICE MAKE AN
18 INVESTIGATION OF ALL THE ITEMS RELATING TO THE APPLICATION AS DESCRIBED IN SUBSECTIONS
19 (3)(A)(I) THROUGH (3)(A)(IV). BASED ON THE RESULTS OF THE INVESTIGATION OR IN EXERCISING ITS
20 SOUND DISCRETION, THE DEPARTMENT SHALL DETERMINE WHETHER:

21 (I) THE APPLICANT IS QUALIFIED TO RECEIVE A LICENSE;

22 (II) THE APPLICANT'S PREMISES ARE SUITABLE FOR THE CARRYING ON OF THE BUSINESS;

23 (III) THE REQUIREMENTS OF THIS CODE AND THE RULES PROMULGATED BY THE DEPARTMENT
24 ARE MET AND COMPLIED WITH; AND

25 (IV) THE SEATING CAPACITY AS STATED ON THE APPLICATION IS CORRECT.

26 (B) THE DEPARTMENT MAY RETAIN 20% OF THE APPLICATION FEE COLLECTED UNDER
27 SUBSECTION (10) (11) TO DEFRAY THE COSTS OF THE DEPARTMENT AND DEPARTMENT OF JUSTICE
28 ASSOCIATED WITH INVESTIGATING AND PROCESSING APPLICATIONS.

29 (4) AN APPLICATION FOR A BEER AND WINE LICENSE SUBMITTED UNDER THIS SECTION IS
30 SUBJECT TO THE PROVISIONS OF 16-4-203, 16-4-207, AND 16-4-405.

(5) IF A PREMISES PROPOSED FOR LICENSING UNDER THIS SECTION IS A NEW OR REMODELED STRUCTURE, THEN THE DEPARTMENT MAY ISSUE A CONDITIONAL LICENSE PRIOR TO COMPLETION OF THE PREMISES BASED ON REASONABLE EVIDENCE, INCLUDING A STATEMENT FROM THE APPLICANT'S ARCHITECT OR CONTRACTOR CONFIRMING THAT THE SEATING CAPACITY STATED ON THE APPLICATION IS CORRECT, THAT THE PREMISES WILL BE SUITABLE FOR THE CARRYING ON OF BUSINESS AS A BONA FIDE RESTAURANT, AS DEFINED IN SUBSECTION (6).

~~(2)(6)~~ For purposes of this section, "restaurant" means a public eating place where individually priced meals are prepared and served for on-premises consumption. At least 75% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. EACH YEAR AFTER A LICENSE IS ISSUED, THE APPLICANT SHALL FILE WITH THE DEPARTMENT A STATEMENT, IN A FORM APPROVED BY THE DEPARTMENT, ATTESTING THAT AT LEAST 75% OF THE GROSS INCOME OF THE RESTAURANT DURING THE PRIOR YEAR RESULTED FROM THE SALE OF FOOD. The restaurant must have a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant. A FULL-SERVICE RESTAURANT IS A RESTAURANT THAT PROVIDES AN EVENING DINNER MENU.

~~(3)(7) (A) (I)~~ A SUBJECT TO THE CONDITIONS OF SUBSECTION (7)(A)(II), A restaurant beer and wine license is not transferable and may not be sold by a licensee MAY BE TRANSFERRED, UPON APPROVAL BY THE DEPARTMENT, FROM THE ORIGINAL APPLICANT TO A NEW OWNER OF THE RESTAURANT IF THERE IS NO CHANGE OF LOCATION, AND THE ORIGINAL OWNER MAY TRANSFER LOCATION AFTER THE LICENSE IS ISSUED BY THE DEPARTMENT TO A NEW LOCATION, UPON APPROVAL BY THE DEPARTMENT.

(II) A NEW OWNER MAY NOT TRANSFER THE LICENSE TO A NEW LOCATION FOR A PERIOD OF 1 YEAR FOLLOWING THE TRANSFER OF THE LICENSE TO THE NEW OWNER.

(B) A LICENSE ISSUED UNDER THIS SECTION MAY BE JOINTLY OWNED, AND THE LICENSE MAY PASS TO THE SURVIVING JOINT TENANT UPON THE DEATH OF THE OTHER TENANT. HOWEVER, THE LICENSE MAY NOT BE TRANSFERRED TO ANY OTHER PERSON OR ENTITY BY OPERATION OF THE LAWS OF INHERITANCE OR SUCCESSION OR ANY OTHER LAWS ALLOWING THE TRANSFER OF PROPERTY UPON THE DEATH OF THE OWNER IN THIS STATE OR IN ANOTHER STATE.

(C) AN ESTATE MAY, UPON THE SALE OF A RESTAURANT THAT IS PROPERTY OF THE ESTATE

1 AND WITH THE APPROVAL OF THE DEPARTMENT, TRANSFER A RESTAURANT BEER AND WINE LICENSE
2 TO A NEW OWNER.

3 (4)(B) (A) The department shall issue a restaurant beer and wine license to a qualified applicant
4 regardless of the number of beer and wine licenses already issued within a beer license quota area in which
5 the restaurant is located;

6 (I) FOR A RESTAURANT LOCATED IN A QUOTA AREA WITH A POPULATION OF 20,000
7 PERSONS OR FEWER, AS THE QUOTA AREA POPULATION IS DETERMINED IN 16-4-105, IF THE NUMBER
8 OF RESTAURANT BEER AND WINE LICENSES ISSUED IN THAT QUOTA AREA IS EQUAL TO OR LESS
9 THAN 60% OF THE NUMBER OF BEER LICENSES THAT MAY BE ISSUED IN THAT QUOTA AREA
10 PURSUANT TO 16-4-105;

11 (II) FOR A RESTAURANT LOCATED IN A QUOTA AREA WITH A POPULATION OF 20,001 TO
12 60,000 PERSONS, AS THE QUOTA AREA POPULATION IS DETERMINED IN 16-4-105, IF THE NUMBER
13 OF RESTAURANT BEER AND WINE LICENSES ISSUED IN THAT QUOTA AREA IS EQUAL TO OR LESS
14 THAN 50% OF THE NUMBER OF BEER LICENSES THAT MAY BE ISSUED IN THAT QUOTA AREA
15 PURSUANT TO 16-4-105;

16 (III) FOR A RESTAURANT LOCATED IN A QUOTA AREA WITH A POPULATION OF 60,001
17 PERSONS OR MORE, AS THE QUOTA AREA POPULATION IS DETERMINED IN 16-4-105, IF THE NUMBER
18 OF RESTAURANT BEER AND WINE LICENSES ISSUED IN THAT QUOTA AREA IS EQUAL TO OR LESS
19 THAN 40% OF THE NUMBER OF BEER LICENSES THAT MAY BE ISSUED IN THAT QUOTA AREA
20 PURSUANT TO 16-4-105; AND

21 (IV) FOR A RESTAURANT LOCATED IN A QUOTA AREA THAT IS ALSO A RESORT COMMUNITY,
22 AS THE RESORT COMMUNITY IS DESIGNATED BY THE DEPARTMENT OF COMMERCE UNDER
23 7-6-4461(5), IF THE NUMBER OF RESTAURANT BEER AND WINE LICENSES ISSUED IN THE QUOTA AREA
24 THAT IS ALSO A RESORT COMMUNITY IS EQUAL TO OR LESS THAN 100% OF THE NUMBER OF BEER
25 LICENSES THAT MAY BE ISSUED IN THAT QUOTA AREA PURSUANT TO 16-4-105.

26 (B) IN DETERMINING THE NUMBER OF RESTAURANT BEER AND WINE LICENSES THAT MAY BE
27 ISSUED UNDER THIS SUBSECTION (8) BASED ON THE PERCENTAGE AMOUNTS DESCRIBED IN
28 SUBSECTIONS (8)(A)(I) THROUGH (8)(A)(III), THE DEPARTMENT SHALL ROUND TO THE NEARER WHOLE
29 NUMBER.

30 (C) IF THERE ARE MORE APPLICANTS THAN LICENSES AVAILABLE IN A QUOTA AREA, THEN

1 THE LICENSE MUST BE AWARDED BY LOTTERY AS PROVIDED IN SUBSECTION (9).

2 (9) (A) WHEN A RESTAURANT BEER AND WINE LICENSE BECOMES AVAILABLE BY THE INITIAL
3 ISSUANCE OF LICENSES UNDER THIS SECTION OR AS THE RESULT OF AN INCREASE IN THE
4 POPULATION IN THE QUOTA AREA, THE NONRENEWAL OF RESTAURANT BEER AND WINE LICENSE,
5 OR THE LAPSE OR REVOCATION OF THE LICENSE BY THE DEPARTMENT, THEN THE DEPARTMENT
6 SHALL ADVERTISE THE AVAILABILITY OF THE LICENSE IN THE QUOTA AREA FOR WHICH IT IS
7 AVAILABLE. IF THERE ARE MORE APPLICANTS THAN NUMBER OF LICENSES AVAILABLE, THE LICENSE
8 MUST BE AWARDED TO AN APPLICANT BY A LOTTERY.

9 (B) ANY APPLICANT WHO OPERATES A RESTAURANT THAT MEETS THE QUALIFICATIONS OF
10 SUBSECTION (6) FOR AT LEAST 12 MONTHS PRIOR TO THE FILING OF AN APPLICATION MUST BE
11 GIVEN A PREFERENCE.

12 (C) THE DEPARTMENT SHALL NUMERICALLY RANK ALL APPLICANTS IN THE LOTTERY. ONLY
13 THE SUCCESSFUL APPLICANTS WILL BE REQUIRED TO SUBMIT A COMPLETED APPLICATION AND THE
14 REQUIRED FEE. AN APPLICANT'S RANKING MAY NOT BE SOLD OR TRANSFERRED TO ANOTHER
15 PERSON OR ENTITY. THE PREFERENCE AND AN APPLICANT'S RANKING APPLY ONLY TO THE
16 INTENDED LICENSE ADVERTISED BY THE DEPARTMENT OR TO THE NUMBER OF LICENSES DETERMINED
17 UNDER SUBSECTION (8) WHEN THERE ARE MORE APPLICANTS THAN LICENSES AVAILABLE. THE
18 APPLICANT'S QUALIFICATIONS FOR ANY OTHER RESTAURANT BEER AND WINE LICENSE AWARDED
19 BY LOTTERY MUST BE DETERMINED AT THE TIME OF THE LOTTERY.

20 ~~(5)(10)~~ Under a restaurant beer and wine license, beer and wine may not be sold for off-premises
21 consumption.

22 ~~(6)(11)~~ An application for a restaurant beer and wine license must be accompanied by a fee of
23 ~~\$1,000~~ ACCORDING TO THE FOLLOWING SCHEDULE:

24 (A) \$5,000 FOR RESTAURANTS WITH A STATED SEATING CAPACITY OF 60 PERSONS OR LESS;

25 (B) \$10,000 FOR RESTAURANTS WITH A STATED SEATING CAPACITY OF 61 TO 100 PERSONS;

26 OR

27 (C) \$20,000 FOR RESTAURANTS WITH A STATED SEATING CAPACITY OF 101 PERSONS OR
28 MORE.

29 (12) The annual fee for a restaurant beer and wine license is ~~\$300~~ \$400.

30 (13) IF A RESTAURANT INCREASES THE STATED SEATING CAPACITY OF THE LICENSED

1 RESTAURANT OR IF THE DEPARTMENT DETERMINES THAT AN APPLICANT HAS INCREASED THE
2 STATED SEATING CAPACITY OF THE LICENSED RESTAURANT, THEN THE APPLICANT SHALL PAY TO
3 THE DEPARTMENT THE DIFFERENCE BETWEEN THE APPLICATION FEE PAID AT THE TIME OF FILING THE
4 ORIGINAL APPLICATION AND THE APPLICABLE APPLICATION FEE FOR THE ADDITIONAL SEATING.

5 (14) THE NUMBER OF BEER AND WINE LICENSES ISSUED TO RESTAURANTS WITH A STATED
6 SEATING CAPACITY OF 101 PERSONS OR MORE MAY NOT EXCEED 25% OF THE TOTAL LICENSES
7 ISSUED.

8 ~~(7)(15)~~ Possession of a restaurant beer and wine license is not a qualification for licensure of any
9 gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant
10 with a restaurant beer and wine license.

11
12 ~~NEW SECTION. Section 2. Appropriate alcoholic beverage license for gaming or gambling. (1)~~
13 ~~Gaming or gambling may be conducted on premises with retail all beverages licenses issued under 16-4-201~~
14 ~~but may not be conducted on premises that are originally licensed after [the effective date of this act] under~~
15 ~~any other provision of law to sell alcoholic beverages for consumption on the premises. The transfer or~~
16 ~~renewal of a license in conformance with the provisions of this title does not constitute the new issuance~~
17 ~~of a license, and premises operating under a license originally issued prior to [the effective date of this act]~~
18 ~~may, subject to the provisions of Title 23, chapter 5, have gaming or gambling conducted on the premises.~~

19 ~~(2) All licenses to sell alcoholic beverages for consumption on the premises, other than~~
20 ~~all beverages licenses issued under 16-4-201, that are issued after [the effective date of this act] must have~~
21 ~~a conspicuous notice that the license may not be used for premises where gaming or gambling is~~
22 ~~conducted.~~

23
24 NEW SECTION. SECTION 2. DENIAL OF RESTAURANT BEER AND WINE LICENSE. (1) A
25 RESTAURANT BEER AND WINE LICENSE MAY NOT BE ISSUED BY THE DEPARTMENT FOR A PREMISES
26 SITUATED WITHIN A ZONE OF A CITY, TOWN, OR COUNTY WHERE THE SALE OF ALCOHOLIC
27 BEVERAGES IS PROHIBITED BY ORDINANCE, A CERTIFIED COPY OF WHICH HAS BEEN FILED WITH THE
28 DEPARTMENT.

29 (2) A RESTAURANT BEER AND WINE LICENSE MAY NOT BE ISSUED OR RENEWED IF THE
30 DEPARTMENT FINDS, SUBJECT TO THE OPPORTUNITY FOR A HEARING PURSUANT TO TITLE 2,

1 CHAPTER 4, PART 6, THAT THE APPLICANT OR THE PREMISES PROPOSED FOR LICENSING FAIL TO
2 MEET THE ELIGIBILITY OR SUITABILITY CRITERIA PROVIDED BY LAW.

3
4 NEW SECTION. SECTION 3. SALE OF BEER AND WINE PROHIBITED DURING CERTAIN HOURS.
5 EXCEPT AS PROVIDED IN 16-3-305, RESTAURANTS LICENSED PURSUANT TO [SECTION 1] IN WHICH
6 BEER AND WINE ARE SOLD, OFFERED FOR SALE, OR GIVEN AWAY AT RETAIL MAY NOT SERVE BEER
7 AND WINE BETWEEN THE HOURS OF 11 P.M. AND 11 A.M. HOWEVER, IF AN INCORPORATED CITY
8 OR TOWN HAS BY ORDINANCE FURTHER RESTRICTED THE HOURS OF SALE OF BEER AND WINE, THEN
9 THE SALE OF BEER AND WINE IN RESTAURANTS LICENSED TO SELL BEER AND WINE, PURSUANT TO
10 [SECTION 1], IS PROHIBITED WITHIN THE LIMITS OF THE CITY OR TOWN DURING THE TIME THAT THE
11 SALE IS PROHIBITED BY THIS SECTION AND IN ADDITION TO THE HOURS THAT THE SALE IS
12 PROHIBITED BY ORDINANCE.

13
14 NEW SECTION. SECTION 4. RESTAURANT BEER AND WINE LICENSE -- PROHIBITED PRACTICES.
15 A RESTAURANT LICENSED FOR THE SALE OF BEER AND WINE PURSUANT TO [SECTION 1] MAY NOT
16 CONVEY TO ANY PERSON BY ANY MEANS THAT A PERSON MAY EITHER PURCHASE OR CONSUME
17 BEER OR WINE ON THE PREMISES WITHOUT BEING REQUIRED TO PURCHASE FOOD.

18
19 NEW SECTION. SECTION 5. APPROPRIATE ALCOHOLIC BEVERAGE LICENSE FOR CERTAIN
20 GAMBLING ACTIVITIES. (1) TO BE ELIGIBLE TO OFFER GAMBLING UNDER TITLE 23, CHAPTER 5, PART
21 3, 5, OR 6, AN APPLICANT SHALL OWN IN THE APPLICANT'S NAME:

22 (A) A RETAIL ALL-BEVERAGES LICENSE ISSUED UNDER 16-4-201; OR

23 (B) EXCEPT AS PROVIDED IN SUBSECTION (1)(C), A LICENSE ISSUED PRIOR TO [THE EFFECTIVE
24 DATE OF SECTION 6 THIS ACT] UNDER 16-4-105, AUTHORIZING THE SALE OF BEER AND WINE FOR
25 CONSUMPTION ON THE LICENSED PREMISES; OR

26 (C) A BEER AND WINE LICENSE ISSUED IN AN AREA OUTSIDE OF AN INCORPORATED CITY OR
27 TOWN AS PROVIDED IN 16-4-105(1)(E). THE OWNER OF THE LICENSE WHOSE PREMISES ARE SITUATED
28 OUTSIDE OF AN INCORPORATED CITY OR TOWN MAY OFFER GAMBLING, REGARDLESS OF WHEN THE
29 LICENSE WAS ISSUED, IF THE OWNER AND PREMISES QUALIFY UNDER TITLE 23, CHAPTER 5, PART
30 3, 5, OR 6.

1 (2) FOR PURPOSES OF THIS SECTION SUBSECTION (1)(B), A LICENSE ISSUED UNDER 16-4-105
2 PRIOR TO [THE EFFECTIVE DATE OF SECTION 6 THIS ACT] MAY BE TRANSFERRED TO A NEW OWNER
3 OR TO A NEW LOCATION OR TRANSFERRED TO A NEW OWNER AND LOCATION BY THE DEPARTMENT
4 OF REVENUE PURSUANT TO THE APPLICABLE PROVISIONS OF TITLE 16. THE OWNER OF THE LICENSE
5 THAT HAS BEEN TRANSFERRED MAY OFFER GAMBLING IF THE OWNER AND THE PREMISES QUALIFY
6 UNDER TITLE 23, CHAPTER 5, PART 3, 5, OR 6.

8 **SECTION 6. SECTION 16-4-105, MCA, IS AMENDED TO READ:**

9 **"16-4-105. Limit on retail beer licenses -- wine license amendments -- off-premises consumption**
10 **-- limitation on use of license -- exception EXCEPTIONS.** (1) Except as otherwise provided by law, a license
11 to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules
12 of the department, may be issued to any person, firm, or corporation that is approved by the department
13 as a fit and proper person, firm, or corporation to sell beer, except that:

14 (a) the number of retail beer licenses that the department may issue for premises situated within
15 incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the
16 cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

17 (i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the
18 corporate limits of the towns, not more than one retail beer license, which may not be used in conjunction
19 with a retail all-beverages license;

20 (ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000
21 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer
22 license for every 500 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

23 (iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the
24 corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail
25 beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail
26 beer license for every additional 2,000 inhabitants, which may not be used in conjunction with retail
27 all-beverages licenses;

28 (b) the number of the inhabitants in incorporated cities and incorporated towns, exclusive of the
29 number of inhabitants residing within a distance of 5 miles from the corporate limits of the cities or towns,
30 governs the number of retail beer licenses that may be issued for use within the cities and towns and within

1 a distance of 5 miles from the corporate limits of the cities and towns. If two or more incorporated
2 municipalities are situated within a distance of 5 miles from each other, the total number of retail beer
3 licenses that may be issued for use in both the incorporated municipalities and within a distance of 5 miles
4 from their respective corporate limits must be determined on the basis of the combined populations of both
5 municipalities and may not exceed the limitations in this section. The distance of 5 miles from the corporate
6 limits of any incorporated city or incorporated town must be measured in a straight line from the nearest
7 entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

8 (c) retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110
9 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in
10 violation of the limitations;

11 (d) the limitations do not prevent the issuance of a nontransferable and nonassignable retail beer
12 license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal
13 military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a
14 lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in
15 existence for a period of 5 years or more prior to January 1, 1949;

16 (e) the number of retail beer licenses that the department may issue for use at premises situated
17 outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles
18 from the corporate limits or for use at premises situated within any unincorporated area must be determined
19 by the department in its discretion, except that a retail beer license may not be issued for any premises so
20 situated unless the department determines that the issuance of the license is required by public convenience
21 and necessity. SUBSECTION (3) DOES NOT APPLY TO LICENSES ISSUED UNDER THIS SUBSECTION
22 (1)(E). THE OWNER OF THE LICENSE WHOSE PREMISES ARE SITUATED OUTSIDE OF AN INCORPORATED
23 CITY OR TOWN MAY OFFER GAMBLING, REGARDLESS OF WHEN THE LICENSE WAS ISSUED, IF THE
24 OWNER AND PREMISES QUALIFY UNDER TITLE 23, CHAPTER 5, PART 3, 5, OR 6.

25 (2) A person holding a license to sell beer for consumption on the premises at retail may apply to
26 the department for an amendment to the license permitting the holder to sell wine as well as beer. The
27 division may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of
28 wine for consumption on the premises would be supplementary to a restaurant or prepared-food business.
29 A Except for beer and wine licenses issued pursuant to [section 1], a person holding a beer-and-wine
30 license may sell wine for consumption on or off the premises. Nonretention of the beer license, for

1 whatever reason, means automatic loss of the wine amendment license.

2 (3) (a) Except as provided in ~~subsection~~ SUBSECTIONS (1)(E) AND (3)(b), a license issued pursuant
3 to this section after [the effective date of this ~~section~~ ACT] must have a conspicuous notice that the license
4 may not be used for premises where gambling is conducted.

5 (b) Subsection (3)(a) does not apply to licenses issued under this section if the department received
6 the application before [the effective date of this ~~section~~ ACT]. For the purposes of this subsection (3)(b),
7 the application is received by the department before [the effective date of this ~~section~~ ACT] if the
8 application's mail cover is postmarked by the United States postal service before [the effective date of this
9 ~~section~~ ACT] or if the application was consigned to a private courier service for delivery to the department
10 before [the effective date of this ~~section~~ ACT]. An applicant who consigns an application to a private
11 courier shall provide to the department, upon demand, documentary evidence satisfactory to the
12 department that the application was consigned to a private courier before [the effective date of this ~~section~~
13 ACT]."

14
15 **SECTION 7. SECTION 16-4-111, MCA, IS AMENDED TO READ:**

16 **"16-4-111. Catering endorsement for beer and wine licensees. (1) (a) A person who is engaged**
17 **primarily in the business of providing meals with table service and who is licensed to sell beer at retail or**
18 **beer and wine at retail for on-premises consumption may, upon the approval of the liquor division, be**
19 **granted a catering endorsement to the license to allow the catering and sale of beer or beer and wine to**
20 **persons attending a special event upon premises not otherwise licensed for the sale of beer or beer and**
21 **wine for on-premises consumption. The beer ~~and~~ or wine must be consumed on the premises where the**
22 **event is held.**

23 **(b) A person who is licensed pursuant to [section 1] to sell beer at retail or beer and wine at retail**
24 **for on-premises consumption may, upon the approval of the liquor division, be granted a catering**
25 **endorsement to the license to allow the catering and sale of beer and wine to persons attending a special**
26 **event upon premises not otherwise licensed for the sale of beer or beer and wine, along with food equal**
27 **in cost to 75% of the total gross revenue from the catering contract, for on-premises consumption. The**
28 **beer or wine must be consumed on the premises where the event is held.**

29 **(2) A written application for a catering endorsement and an annual fee of \$200 must be submitted**
30 **to the department for its approval.**

(3) A licensee who holds a catering endorsement may not cater an event in which the licensee is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business.

(4) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises that the catered event is to be held. A fee of \$35 must accompany the notice.

(5) The sale of beer or beer and wine pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(6) The sale of beer or beer and wine pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval for the on-premises sale of beer or beer and wine on premises where the event is to be held.

(7) A catering endorsement issued for the purpose of selling and serving beer or beer and wine at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer or beer and wine in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises."

Section 8. Section 23-5-306, MCA, is amended to read:

"23-5-306. Live card game table -- permit -- fees -- disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177 and ~~a~~ who holds an appropriate license to sell alcoholic beverages for consumption on the premises as provided in [section 2 5] may be granted an annual permit for the placement of live card game tables.

(b) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

(i) one or more live card game tables were legally operated on the premises on January 15, 1989;

(ii) the premises were licensed on January 15, 1989, to sell food, cigarettes, or any other consumable product;

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

(a) \$250 for the first table; and

(b) \$500 for each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury."

Section 9. Section 23-5-502, MCA, is amended to read:

"23-5-502. Sports pools and sports tab games authorized -- tax. (1) Conducting or participating in sports pools and sports tab games as defined and governed in this part is lawful, except that:

(a) sports tab games may ~~only~~ be conducted only on premises appropriately licensed to sell alcoholic beverages for consumption on the premises as provided in [section 2 5]; and

(b) only a licensee of premises that are located in an incorporated city or town with a population of less than 100 or located outside the boundaries of an incorporated city or town and that are appropriately licensed to sell alcoholic beverages for consumption on the premises under [section 2 5] may conduct a race between animals and conduct one or more sports pools on the race. The race may be conducted only if it is between pigs, gerbils, or hamsters and is conducted on the premises but outside of interior areas of the establishment where food and beverages are usually stored, prepared, or served.

(2) A manufacturer licensed under 23-5-115 who sells sports tabs to a licensed operator for use in a sports tab game shall collect from the operator, at the time of sale, a tax of \$1 for each 100 sports tabs sold and, within 15 days after the end of each calendar quarter, submit to the department any forms required by the department and the proceeds of the collected tax. The manufacturer shall keep a record of taxes collected as required by department rule. The records must be made available for inspection by the department upon request of the department. The department shall retain the proceeds of the tax to

1 administer this part."

2

3 **Section 10.** Section 23-5-603, MCA, is amended to read:

4 **"23-5-603. Video gambling machines -- possession -- play -- restriction.** (1) A licensed operator
5 may make available for public play only the number of approved video gambling machines specifically
6 authorized by this part.

7 (2) The video gambling machines specifically authorized by this part are bingo, keno, and draw
8 poker machines. Only the number of approved machines for which permits have been granted under
9 23-5-612 may be made available for play by the public on the premises of a licensed operator. The
10 department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced
11 while it is being repaired with a video gambling machine that is approved under the permit provisions of
12 this part. A fee may not be charged for the replacement machine.

13 (3) Machines on premises appropriately licensed to sell alcoholic beverages for on-premises
14 consumption as provided in [section 2 5] must be placed:

15 (a) in a room, area, or other part of the premises in which alcoholic beverages are sold or
16 consumed; and

17 (b) within control of the operator for the purpose of preventing access to the machines by persons
18 under 18 years of age."

19

20 **Section 11.** Section 23-5-611, MCA, is amended to read:

21 **"23-5-611. Machine permit qualifications -- limitations.** (1) (a) A person who has been granted an
22 operator's license under 23-5-177 and ~~a~~ who holds an appropriate license to sell alcoholic beverages for
23 consumption on the premises as provided in [section 2 5] may be granted a permit for the placement of
24 video gambling machines ~~in his~~ on the person's premises.

25 (b) If video keno or bingo gambling machines were legally operated on a premises on January 15,
26 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the
27 premises or operated for the principal purpose of gaming and there is an operator's license for the premises
28 under 23-5-177, a permit for the same number of video keno or bingo gambling machines as were operated
29 on the premises on that date may be granted to the person who held the permit for such machines on those
30 premises on that date.

1 (c) A person who legally operated an establishment on January 15, 1989, for the principal purpose
2 of gaming and has been granted an operator's license under 23-5-177 may be granted a permit for the
3 placement of bingo and keno machines ~~in his~~ on the person's premises.

4 (2) An applicant for a permit shall disclose on the application form to the department any
5 information required by the department consistent with the provisions of 23-5-176.

6 (3) A licensee may not have on the premises or make available for play on the premises more than
7 20 machines of any combination."
8

9 NEW SECTION. SECTION 12. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID
10 PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT]
11 IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID
12 APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.
13

14 NEW SECTION. Section 13. Codification instruction. (1) [Sections 1 and 2 THROUGH 4] are
15 intended to be codified as an integral part of Title 16, CHAPTER 4, PART 4, and the provisions of Title 16,
16 CHAPTER 4, PART 4, apply to [sections 1 and 2 THROUGH 4].

17 (2) [SECTION 5] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 23, CHAPTER
18 5, PART 1, AND THE PROVISIONS OF TITLE 23, CHAPTER 5, PART 1, APPLY TO [SECTION 5].
19

20 NEW SECTION. SECTION 14. EFFECTIVE DATES. (1) EXCEPT AS PROVIDED IN SUBSECTION
21 (2), [THIS ACT] IS EFFECTIVE OCTOBER 1, 1997.

22 (2) [SECTION 6] AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND APPROVAL.
23

-END-